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PROCEEDINGS

OF THE

THIRD

MEETING OF THE GOVERNORS

OF THE

STATES OF THE UNION

HELD AT

FRANKFORT AND LOUISVILLE

KENTUCKY

NOVEMBER 29, 30, DECEMBER 1, 1910

THE LAKEWOOD PRESS
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MEETING OF GOVERNORS

FRANKFORT, KENTUCKY, November 29, 1910.

The meeting was called to order by Governor Augustus E. Willson, of Kentucky, at 12 o'clock M.

The following Governors were present:

GOVERNOR-ELECT EMMET O'NEAL, of Alabama.
GOVERNOR RICHARD E. SLOAN, of Arizona.
GOVERNOR JOHN F. SHAFROTH, of Colorado.
GOVERNOR FRANK B. WEEKS, of Connecticut.
GOVERNOR JOSEPH M. BROWN, of Georgia.
GOVERNOR CHARLES S. DENEEN, of Illinois.
GOVERNOR THOMAS R. MARSHALL, of Indiana.
GOVERNOR AUGUSTUS E. WILLSON, of Kentucky.
GOVERNOR-ELECT F. W. PLAISTED, of Maine.
GOVERNOR EBEN S. DRAPER, of Massachusetts.
GOVERNOR EDMOND F. NOEL, of Mississippi.
GOVERNOR HERBERT S. HADLEY, of Missouri.
GOVERNOR EDWIN L. NORRIS, of Montana.
GOVERNOR JOHN FRANKLIN FORT, of New Jersey.
GOVERNOR-ELECT WOODROW WILSON, of New Jersey.
GOVERNOR W. W. KITCHIN, of North Carolina.
GOVERNOR JUDSON HARMON, of Ohio.
GOVERNOR-ELECT LEE CRUCE, of Oklahoma.
GOVERNOR ARAM J. POTHIER, of Rhode Island.
GOVERNOR MARTIN F. ANSEL, of South Carolina.
GOVERNOR R. S. VESSEY, of South Dakota.
GOVERNOR WILLIAM SPRY, of Utah.
GOVERNOR WILLIAM H. MANN, of Virginia.
GOVERNOR-ELECT FRANCIS E. MCGOVERN, of Wisconsin.

GOVERNOR WILLSON.—Our distinguished guests, Governors and Governors-elect of our sister Commonwealths and States and to their families here assembled with us, the third Conference of Governors is now opened, not the "House of Governors". The Governors, in Conference, have twice disavowed that name. This is simply a "Conference".

I am asked to announce that at the close of this meeting, we are to adjourn to Col. Taylor's residence on the Louisville Pike, for luncheon, and immediately after that the Governors will return to the Capitol Building. When they return, our neighbors will see that the Governors have the front seats.

I desire to read first a letter from the President of the United States:

THE WHITE HOUSE, WASHINGTON, D. C.,
November 27, 1910.

MY DEAR GOVERNOR WILLSON:

I deeply regret that I cannot be the guest of the Governors' Conference, on account of the pressure of work incident to the opening of Congress. I have great sympathy with the objects of your meeting, which I understand to be to secure the general national welfare by uniformity of State legislation upon subjects having general national interest which are not by the Constitution entrusted to Congress and the central Government. I wish for your meeting the most successful issue in substantial results.

I do not express any anxiety in respect to the pleasure which the Governors will have in their meeting under the auspices of Kentucky, for the hospitality of her people goes without saying.

Renewing my personal regret at not being able to be present, believe me, my dear Governor,

Sincerely yours,

WM. H. TAFT.

Hon. Augustus E. Willson,
Governor of Kentucky.

Yielding to the solicitations of the press for copy of the address of welcome, I have prepared and given it out to the press. It is only the third time in my experience as Governor that I have been guilty of that offense, and now when I come to greet you,

while I had rather have spoken to you without notes, there are some thoughts in the prepared address that I wish to present to you, and you will pardon me if, in part, I refer to the notes.

ADDRESS OF WELCOME TO GOVERNORS' CONFERENCE

By GOVERNOR WILLSON OF KENTUCKY.

Cordial welcome and greetings to our guests, the Governors and Governors-elect and their families, here met together from sister Commonwealths and States of the Union. Greeting from Kentucky and welcome to Kentucky, our Kentucky, today your Kentucky.

"Not the oldest nor yet the youngest State;
Not the richest nor yet the poorest;
Not the largest nor yet the least;
But take it all and all for men and women,
For flocks and herds, for fields and skies,
For happy homes and loving hearts,
The best place, outside of Heaven, the Good Lord ever made."

My voice cannot carry; my lips cannot utter; my spirit cannot bear all the volume of the message which comes to you here in Kentucky's State House from all the people and all the homes of Kentucky, the feeling of two and a half millions of people, the greetings of a vast host, strong in the humanities, in their love of home and country and State, in their bond of partnership with all the other States and all the people of them; in their feeling that you are welcomed today as the chosen representatives of those sister Commonwealths. I cannot describe to you the power, the earnestness, the lovliness of the feeling with which all Kentucky has awaited and expected your coming.

Our people welcome you because they know that you will use the character, spirit and zeal, which have made you chosen Governors of your people, on the common problems for the welfare of all our people and all humanity, and they welcome you because they have this chance, through you as chosen representatives, if

not vicarious sufferers, to extend to all your people, through you, the old homely ways and habits of hospitality which you are used to in your homes as we are in our homes. We do not hope nor try to surpass the hospitality of any other American State. We simply take you into our homes and our circles of friends as you find them, that we may work together and be glad together, that we may strive for useful results and share in joyful reunions. We do not hope nor wish to reveal to you either the oratory of the future or revive traditional oratory of the past. We shall hope rather to talk together even as friends do talk in the homely, natural and unrestrained way of everyday friendly communion.

It was our wish to have brought before you in prancing splendor the very blue blood princes of Kentucky horses, to have shown you from swift flying cars the rich bluegrass fields and the famous Kentucky homes, but chidden by the counselors of your Order, we had to say "no" to our neighbors and bow to the fact that this Conference meets for work and not for pleasure, and to plan to give you the working hours of each of the days for the work which brings you together, and to take advantage of the hours between work and sleep to get acquainted with you and to make you acquainted with as many of our people as your number may meet in those intervals. We do not wish to weary you with attentions. We wish you to look upon our homes and our meeting places as places which may be classed with "Liberty Hall," for each guest hath the freedom of this Commonwealth and shall do even as he wisheth every hour and minute, but we greet you with the wish to know you, and to make you at home each and every one and to make you glad you came, and when you return to your homes, we shall hope that you will go with warm hearted memories and a longing to come back again.

Kentucky has furnished to other States and other Territories of this Union, 105 Governors, whose names and offices I have seen printed in a recent book. We could and would gladly take each and all of you to abide with us for the rest of your lives in place of those who have gone out from us to rule in other States. We are glad to greet here today three of those one hundred and five Governors, and to say to you as representatives of all the States that we are ready to furnish even one hundred and five more and then some.

We rejoice in this new State House, begun under the administration of one party and finished and furnished under another. We feel that its seat will be, when the grounds are completed, the most beautiful site for any capitol in the country, and that in the building the architect was fortunate in its impressive proportions and its massive and simple strength of character and design. These grounds and this building, with all the latest improvements of heat and light, ventilation and vacuum cleaning, with the magnificent power plant, the best in the State, and the very best furniture, has in all cost only $1,900,000.00 up to date, a fact which excludes any chance that the State did not get the full value of every dollar of public money that has been spent on it, without any unfair compensation or profit. We speak of this simply for the information of our visitors, as a fact which may be useful to more than one of your States hereafter.

As the Governor, for this period, of one of the Southern States, I bring this greeting in behalf of all the South to our visitors from the North. It is good that you come among us to see that we are not even as the Philistines and that our people may see that you and each of you are even as our own when we think of ourselves most kindly. It is good that you should find here a people of a State which in 1860 had only sixty thousand people of foreign birth out of fourteen hundred thousand, and in 1900 had only fifty thousand out of two million four hundred thousand; that you should know that there is no State in the Union more typically American; that with that character of population and the kind of people whom you see here and meet here, and who are but samples of the every day folks, it may well come to pass that in the dangers to our Union which force themselves upon the minds of some thoughtful men, the Southern States may yet prove, in some future time, to be the very sheet anchor and fortress of the safety of our plan of government and our Union.

We are glad to have our citizens of foreign birth and we and they would be better off if we had more of them, but we have a very staunch population.

The song of "The Old Kentucky Home" has melted the hearts of men a thousand times in every country and every clime with its love and pathos, and today its tenderness, its pathos, its loyalty and its kindness rule in our hearts and our homes, in the Bluegrass

and in the mountains, in every part of this fair land where we love to think that the strongest is the kindest and the bravest is the tenderest; that the fairest is the truest and the most loving endureth most for love.

When I lift up my voice to you in greeting, I am speaking for all the two and a half millions of people; the light of friendship and good will which shines in my eyes as I look upon you is in the hearts of all our people. When I stretch forth my hand to bid you welcome, it is but the emblem and the sign of their myriads of friendly hands reaching towards you, as many as the leaves that have fallen in the autumn. All those people, all those voices, all those friendly glances and all those hands reaching out with one accord and one thought to bid you welcome and to give you loving greeting.

In another year, a noble statue of Abraham Lincoln, of heroic size and in bronze, will stand in the center of the rotunda. A beautiful portrait bust of Henry Clay, by Hiram Powers, stands in the Governor's office. In reverence for these pioneer souls of American history, we feel today that they are looking down from the windows of Heaven upon their people to see that we do all in our power to keep their traditions and feel their inspiration.

And now you are met in this goodly town and snug City of Frankfort—an old town—the home of many of the noblest names in the history of Kentucky and names which have shed glory on the history of our country and its institutions and the scene of historic incidents in the lives of a host of other great Kentuckians and great Americans, a town which holds today not only their traditions and their memories, but their descendents and their ways of thinking and of living, their great human qualities and their hospitality, and for that old town, one of its citizens, who has come up by his own character, industry and good sense to be the leader of this City, will now welcome you to the City. I have the honor to introduce the Mayor of Frankfort, Judge James H. Polsgrove, who will now greet you for Frankfort.

ADDRESS OF WELCOME.

By MAYOR JAMES H. POLSGROVE, of Frankfort.

Realizing the magnitude of the occasion, I would be reluctant to appear in this distinguished presence for any other purpose than to answer a call to duty. I make the effort with the approbation of my people who are moved, as never before, by the spirit of hospitality and civic pride. It is indeed a delighful privilege to contribute in some measure to the success of the great purposes that brought you within our gates. We cannot but fear that we may be unequal to the important duties that confront us, though we approach them with the highest degree of pleasure. We have long since become accustomed to one Governor, and there was a time when we had two, but the idea of having as many of them as we now have, all in our midst at the same time, simply overwhelms us, and yet, we are sure of one thing, that while here in Kentucky, His Excellency, the Governor of North Carolina will not find it necessary to use his oft repeated expression to His Excellency, the Governor of South Carolina. This is not the time for a discussion of the subjects you have met here to consider, and I would not do so even if I could. But we are zealous to prove to you the wisdom in selection of a place to hold your deliberations, and we feel that when it was determined to go elsewhere than the National Capitol, if the "Old Dominion" was not to receive the compliment, it was aptly bestowed upon her first fair daughter. We hope to be able to remove any misgivings you may have regarding our devotion to law and order, and our loyalty to State and Nation. You will find here the same kind of human nature that exists the world over. We have people of varied religious beliefs; we have Democrats and Republicans, radical and conservative Democrats, mostly radical, stand-patter and insurgent Republicans, mostly insurgents now, but we all believe in conciliation and conservation. If we have differences, we defer them, we lay down the armor and the sword, and stand ready to do whatever may be the proper thing for your entertainment, and our hearts beat in unison for your pleasure and the sake of this eventful day.

The City of Frankfort sits here on the beautious bosom of this fair valley, within the bounds of the bluegrass section, sustained by the rich products of its soil, and adorning the banks of the historic river that bears the name of our beloved Commonwealth. Its history is largely the history of the State. Whatever there may be to discredit the one affects the other, and if either have established a bad reputation with reference to the use of arms, may I not say in mitigation, if not as a matter of defense, that the whole country has profited by it in the past? Because, under Isaac Shelby, at the River Thames, they won the battle that turned the tide against the enemy in the second conflict with England, and again in the battle of New Orleans they gained a glorious victory for Andrew Jackson. So we feel justified in making the boast that Kentucky marksmanship saved the country, the second time, from the tyranny of the British crown.

We are in a congressional district that has been pronounced the most beautiful in the United States. True, it does not equal in wealth, nor in the channels of commerce and manufacture, nor in modern invention, and scientific achievement, but for agricultural purposes it ranks among the best. Its bluegrass farms are gems of perfection, and its blooded horses are the admired of every land and clime. Its eloquence has electrified the world —its name is Ashland and it was made famous by Henry Clay. Kentucky has not become the Mother of Presidents, like Virginia and Ohio, but she is entitled to be called the Mother of Governors, One hundred and five of her sons have become Chief Executives of other States and Territories, and if only two of them have risen to be the Chief Magistrate of the Republic, it is because she has produced the character of men, who "would rather be right than President."

In his farewell address, Mr. Washington warned the people against the "characterization of parties by geographical discriminations" because: "They tend to render alien to each other those who ought to be bound together by fraternal affections". Mr. Lincoln, in his first inaugural address said: "Though passion may have strained it must not break our bonds of affection. The mystic chords of memory stretching from every battlefield and patriotic grave to every living heart and hearth-stone all over this broad land will yet swell the chorus of the nation when again

touched, as they surely will be, by the better angels of our nature." Mr. Watterson, on the last anniversary of the birth of Washington, gave expression to the view that when President William McKinley signed the commissions of Joseph Wheeler and Fitzhugh Lee, to be generals in the army of the United States, he gave official announcement of complete amnesty to the people of the South for alleged acts committed during the war of sections; and recites that the silver service of an American battleship bears the image of Jefferson Davis; that the monument of a Confederate General has been dedicated in a national cemetery, and the son of Ulysses S. Grant, as the representative of the Federal Government, participated in the ceremonies, and that "The South rallied equally with the North, to the nation's drum-beat after the Maine went down in the harbor of Havana." As humble citizens of the United States in this the spring-time of the twentieth century, we the people of Frankfort, rejoice in the triumph of the profound hope of Washington; we rejoice in the fulfillment of the eloquent prophesy of Lincoln, and we rejoice in the truth of the brilliant declaration of Watterson. And it is, to us a pleasing co-incidence that you have come from all over the domain known as the Northwest Territory, where lie the rich fruits of the conquest of George Rogers Clark; that you have come from the land of Dixie, the prairies of the West, and met here upon the common hunting-ground of pioneer days, the neutral ground of war times, the birthplace of both Lincoln and Davis, cherished by us all with equal veneration. And as we extend to you the hand of welcome, not only do we enter, with you, into the spirit of National Unity, but we are glad that sectionalism is gone forever, and that Mason and Dixon's line exists no longer save in the fading memory.

Frankfort is the harbinger of blessed renown. If you will look across the landscape to yonder hill, you will see a memorial shaft marking the place where many heroes sleep.

"On fame's eternal camping ground
Their silent tents are spread,
And glory guards with solemn round
The bivouac of the dead."

On that hallowed spot, carved by the hand of Providence into one of nature's masterpieces, O'Hara stood and gave to the world

the masterpiece of martial rhyme that has fired the emotions of all men.

In 1812 General LaFayette was the distinguished guest of our ancestors. History tells that the military arm of the State together with a cavalcade of citizens went out to meet him and that unbounded enthusiasm marked the presence of this illustrious ally of the Father of our Country. When their own Zachary Taylor was on his triumphant march to Washington, he came by to pay his respects to his friends and admirers and Millard Fillmore came in 1854 and received the homage of a multitude. And many times in the past has our little city enjoyed the favoritism of noted men, but she feels today that the eyes of the world are upon her, that she has reached the zenith of all her glory, and that the distinction of being hostess to the greatest assemblage of men of this the greatest of all nations, in this the greatest age of all times, is the brightest jewel in her crown.

Governor Willson, in presenting Governor Aram J. Pothier, said: The Committee has had the great fortune to secure the consent of Governor Pothier, of Rhode Island, to make the response.

GOVERNOR POTHIER.—Governor Willson, Mayor Polsgrove, your Excellencies, Ladies and Gentlemen: The State of Rhode Island sends her greetings to the Governors of her sister States. She is highly honored by the selection of her representative to respond to the cordial welcome which the State of Kentucky and the city of Frankfort extend to them today.

To the one upon whom this pleasing duty has fallen, its performance is a source of extreme personal gratification. The hospitality for which the State of Kentucky is noted, is reflected in the hearty words to which we have listened from the executives of the State and it's capital city. It is to be manifested in generous measure in the cities of Frankfort and Louisville during the present week, and I am sure that I voice the sentiments of every member of this conference in expressing the sense of gratitude your visitors feel today, and will more keenly feel as the days go by, at the splendid preparations made by the officials and the private citizens of this commonwealth for their entertainment and comfort.

This is a proud occasion for Kentucky. It marks the crystalization of a movement begun a little more than three years ago—a movement which is destined to establish a new relationship between the States and this Union. The previous conferences of Governors at Washington demonstrated the possibilities of such an institution. A definite plan for its perpetuation on a permanent basis is the result. Thus we come together here as an organization, imperfect as yet perhaps, but with a nucleus around which will be formed a substantial, lasting and powerful agency for the promotion of uniformity in state laws, the protection of State rights, and the facilitating and expansion of inter-State rights, and the facilitating and expansion of inter-state relations.

The province of an organization of State Governors, as has been ably pointed out, is along lines separate and distinct from the functions of the United States Congress. The latter, while similar in the fact of its being a body made up of representatives of the different States, legislates primarily for the Federal Government—for the Union as a whole. The Governors' Conference, while it may not and certainly should not be unmindful of the trend of national laws, seeks as its main object a closer affinity between the States through State laws, in so far as it is practicable to bring this about.

It may not be feasible—indeed it is not possible—for this conference to write a volume of statute law adapted to the use of every State. Local conditions must be, and always will be, a first consideration in shaping the policies of State governments. But there are matters in which the States have a common interest, which can best be regulated by the States themselves, and in which fairness and justice between States and individuals suggest, and even demand, practically identical statutory regulations.

Some of these matters are on the program for discussion here. Others, as their importance comes to be more fully recognized, will be debated at similar conferences in years to come. As times and conditions change, so the views of men will change, and this organization will never want for material upon which to bring its energies and its influence to bear. But with each succeeding year there will be seen a further progress in the direction your efforts are taking—a clearer understanding between the States, a grow-

ing respect on the part of each for its neighbors, and a constant approach toward consistency in their legislation.

It is hardly expected that one speaking at this juncture in the proceedings will enter upon a discussion of any of these questions. I feel, however, that I must take this opportunity to say that Rhode Island is as greatly interested as any State in the Union in watching the tendency toward progressive legislation in her sister commonwealths that, although traditionally conservative, she has not been unresponsive to the changes which the lapse of time and advanced thought have wrought in governmental policies and methods.

In some respects she has been and is a pioneer, but she has hesitated to adopt some of the measures that have been called progressive, until satisfied by mature reflection, and assured by the experience of others, that those measures were wise and sound and not inimical to the principles of representative government.

She has recently taken a radical departure from a time-honored position in conferring, by constitutional amendment, the power of veto upon the chief executive. Another proposed amendment is now pending in the legislature, which, if approved by the General Assembly in 1911, and ratified by the people at the polls next November, will change the system of State elections from the annual, which has existed since 1797, to the biennial.

On the question of the popular nomination and election of United States Senators, Rhode Island officially has taken no stand. Politically this has been made a party issue there, which is only natural, in view of the fact that the party which for years has elected its candidates to the national Senate, apparently is satisfied with the present situation, while the opposing party, which so far has been unable to secure representation in that body, is desirous of a change.

As President Taft has well said, the question is not one of party, and should not be determined by party considerations. It is not surprising, however that in Rhode Island and in all the New England States, where the Republican party has controlled the election of Senators for years, the Democratic platforms contain this year a demand for such an amendment to the Federal Constitution.

So far as the sentiment of Rhode Island is reflected by its General Assembly, the disposition is to regard the considerations that actuated the framers of the Federal Constitution as having the same weight today that they had in 1787. Those who look with disfavor upon the proposition to change the constitution in this respect, hold to the belief that the two houses of Congress should not be elected by the same constitutencies, else the advantage which each now possesses over the other would be to a considerable degree lessened in fact, that there would be little advantage left, save in the difference in proportion which the Senate and House memberships bear the respective States, and the difference in the terms of service of their members.

As this subject is to occupy an importance place in the discussions of this conference, may I express the hope that the broadest conception of the welfare and stability of the nation, and of every one of its integral parts, will direct and influence this body in its conclusions upon so vital a question.

A peculiarity of Rhode Island law that is frequently commented upon, is the so-called property qualification required of electors to entitle them to vote for members of City Councils. The State constitution provides "That no person shall at any time be allowed to vote in the election of the City Council of any city, or upon any proposition to impose a tax or for the expenditure of money in any town or city, unless he shall within a year next preceding have paid a tax assessed upon his property therein valued at least at $134.

The clause in this provision that has been subject to persistent attack, is that which disfranchises non-property voters in City Council elections. In the towns all electors are entitled to vote for members of Town Councils, but the latter bodies do not make appropriations, as do the City Councils, and the taxpayers in the towns exercise their control over expenditures directly through financial town meetings.

The argument in favor of the property qualification in the election of City Councils, is, that without this requirement taxpayers will have no medium through which they can control appropriations of public funds in cities, as they do in towns. Rhode Island has been criticised, by agencies both within and without the State, for not abandoning this position and extending the right

of suffrage to all alike. Yet the property owners and taxpayers in the cities feel that they should be given a satisfactory substitute for the financial town meeting, if their present exclusive right to the selection of members of City Councils is to be invaded.

Whether the Rhode Island idea is fair, just or equitable, is a matter of opinion. Against it there has been cited, in argument, the fact that State Legislatures which appropriate and expend large sums of money are elected by popular vote, that the members of Congress, which expends billions, are elected practically in the same way. From this the deduction is drawn that a system of electing City Councils to expend the money of cities which restricts the vote to a property qualified electorate, is illogical and arbitrary. But the taxpayer in turn points to the fact that the privilege of selecting men to authorize local expenditures—the men who are to disburse the revenue raised by direct city taxes upon his property—is the only protection of the kind that he is permitted to enjoy under any branch of government—city, State or national.

This question, like the method of electing United States Senators, manifestly should not be determined on party lines. It is only natural that registry or non-property-holding voters should desire the privilege of voting for members of City Councils. The party which is seeking the control of government finds in these matters a powerful means of appealing to the electorate, and cannot be blamed for taking advantage of it in its platforms, but the same question of the relative soundness of the existing and the proposed policy, rather than any question of partisan advantage, should alone direct their determination.

The question of the powers and responsibilities of the Governor, which is to be discussed at this conference, will be of interest to Rhode Island. Appointments to boards and commissions there are usually made by the Governor subject to confirmation by the State Senate. A few years ago political differences between the Governor and the General Assembly led the latter to recall some of the authority which it had conferred upon the chief executive; so that at the present time, if the Senate does not see fit to confirm an appointment, it may refuse to recognize it, and proceed to make its own selection to nearly every office.

A demand for what is termed the "restoration" of the appointing

power to the Governor, has been a conspicuous feature in campaign arguments since the time of this change. Whatever may be the merits of this demand, it should be understood that all the appointive power ever enjoyed by the Governor of Rhode Island was originally delegated by the General Assembly, which, by enactment, created every board and commission involved. Under the constitution the General Assembly has a perfect right, if it should see fit, to relieve the Governor entirely of the duty of making appointments, and to take upon itself the election of all subordinate state officers.

On the question of conservation, which this conference is to consider in its many phases, Rhode Island has within a few months taken a definite stand. The General Assembly has established a continuing commission, made up of five department heads—the Commissioner of Industrial Statistics, the Commissioner of Forestry, the Secretary of the Board of Agriculture, the Secretary of the Metropolitan Park Commission, and the Directors of the United States Agricultural Experiment Station. The commission is now engaged in a survey and census of all the idle and unproductive lands of the state. When completed this census will present, in shape for practical use, the state's natural resources of every description, and uses to which the different varities of its soil are adaptable. It is believed that this commission is unique in its composition. It establishes a permanent connection between the heads of the departments represented.

I have spoken of these matters at this time, that something of Rhode Island's attitude may be understood, and in the hope that what I have said may prove of interest and perhaps add material for the discussion of the week.

I thank you for your attention and trust that this gathering will be productive of much material for study, rich in suggestion and prolific in results.

GOVERNOR WILLSON.—Before we adjourn for luncheon, I beg to ask that each of the Governors shall make the Governor's office his headquarters, and that every facility we have in the Capitol shall be at your command during the session.

I wish to say that it will be necessary for us to have some provision for the remaining sessions as to program, officers, etc. You will remember, from the previous meetings, that the Confer-

ence has no positive rule excepting that two Governors shall not speak at once. I believe that is the only rule that has been in force.

I shall exonerate two of the members of the Committee on Program from especial responsibility for the program because they were at a distance and I had to make most of the arrangements with the Secretary. The Committee on Program has presented here, through the Secretary retained by our Committee until further pleasure of the Conference, a tentative program that is in no way binding on the Conference which is to be a law unto itself, and these suggestions as to numbers on the program are entirely at the will of the Conference. I would suggest therefore that we should have a preliminary Committee.

GOVERNOR FORT.—Mr. Chairman, I move that there be a Committee of five appointed on organization, rules and order of procedure, and then I want to make another motion that the temporary organization be continued for the afternoon, and in order that the proceedings may be in order, I make the motion first that a Committee of five be appointed.

GOVERNOR WILLSON.—By whom?

GOVERNOR FORT.—By the Chairman.

The motion was seconded by Governor Frank B. Weeks, of Connecticut.

GOVERNOR WILLSON.—It is moved and seconded that the Temporary Chairman appoint a Committee of five on organization, rules and order of procedure. Are there any remarks? If not, the Chair will put the question. (The question was put and the motion carried unanimously.)

On motion of Governor Fort, seconded by Governor Weeks, the Conference ordered that the Temporary Chairman, Governor Willson, preside at the afternoon session.

GOVERNOR WILLSON.—I thank you gentlemen of the Conference for the courtesy and shall try to fulfil your will and not mine.

On suggestion of Governor Fort to appoint the Committee before recess, Governor Willson said:

I have thought it wise to appoint a number of Governors, who were at former meetings, not as a precedent, but for the benefit of their experience, on program, order of business, procedure, etc.

I suggest, then, for the Committee of five, Governor John Franklin Fort, of New Jersey, Governor Judson Harmon, of Ohio, Governor Frank B. Weeks, of Connecticut, Governor Thomas R. Marshall, of Indiana, and Governor Martin F. Ansel, of South Carolina.

The Conference then took a recess for luncheon.

AFTERNOON SESSION

The afternoon session convened at 3.30 P. M.

GOVERNOR WILLSON.—I desire to read some telegrams and letters of some of our absent members. (Governor Willson here read messages from Governor Braxton B.Comer, of Alabama, Governor George W. Donaghey, of Arkansas; Governor James N. Gillett, of California; Governor-elect Hiram W. Johnson, of California; Governor-elect Simeon E. Baldwin, of Connecticut; Governor Albert W. Gilchrist, of Florida; Governor-elect Hoke Smith of Georgia; Governor James H. Brady, of Idaho; Governor-elect James H. Hawley, of Idaho; Governor B. F. Carroll, of Iowa; Governor Walter R. Stubbs, of Kansas; Governor Jared Y. Sanders, of Louisiana; Governor Austin L. Crothers, of Maryland; Governor Fred M. Warner, of Michigan; Governor-elect Chase S. Osborn, of Michigan; Governor Henry B. Quinby, of New Hampshire; Governor-elect Chester H. Aldrich, of Nebraska; Governor-elect Tasker L. Oddie, of Nevada; Governor Frank W. Benson, of Oregon; Governor-elect Oswald West, of Oregon; Governor Edwin S. Stuart, of Pennsylvania; Governor-elect Benjamin W. Hooper, of Tennessee; Governor Thomas M. Campbell, of Texas; Governor-elect O. B. Colquitt, of Texas; Governor-elect John A. Mead of Vermont; Governor William E. Glasscock, of West Virginia; Governor James O. Davidson, of Wisconsin; Governor-elect Joseph M. Carey, of Wyoming.

GOVERNOR WILLSON.—For the information of all, I will announce it is our hope to leave here in the morning on the special train from the station at 9.30. I am also requested to announce in behalf of the Louisville Committee that on the arrival of the train in Louisville, the Governors and Governors-elect and their

wives, daughters and sisters will be driven to the Seelbach Hotel. The ladies will be entertained at luncheon in the leather room of the hotel; the Governors in the Rathskeller.

There are a number of letters and a great many communications from people interested in a great many causes, many of them important causes, but I thought it wise to hold them all up until a Committee on program or resolution was appointed and then turn them over to the Committee. We have a letter from the Ladies Equal Rights Association of the United States and others, whose subjects seem to be pertinent to Legislatures rather than Executives. The subjects which pertain to the Executive Branch of the Government seem likely to take more time than we shall have. But as I said before, the program is merely tentative and will be amended and made to suit the pleasure of the Governors in attendance, so that you will be assured that the Committee has not wished to regulate the course of the Conference, but merely to try to make helpful suggestions.

Is the Committee on procedure ready to report?

GOVERNOR FORT.—The Committee, after Conference, have decided to recommend the following rules of procedure on the lines of the last conference at Washington. We thought they were very simple and we went upon the theory that this conference could not bind any other Conference and that each one should have its own rules of procedure and regulate itself in its own way. The recommendation of the Committee is this:

The rules of order for the governing of the Conference shall be:

1. There shall not be any permanent President of the Conference.
2. A Governor shall be selected to preside at each sitting of the Conference.
3. The Committee on organization shall make recommendation to the Conference, at the end of each sitting, of a Governor to preside at the next sitting and if the recommendation be approved by the Conference, he shall be the Chairman for that sitting.
4. There shall be a permanent Secretary of the Conference, selected by the Conference at its pleasure.
5. The proceedings of the Conference shall be stenographically reported.
6. There shall be no rules for the government of the Conference in discussion or debate, but all proceedings shall be at all times under the direction of the Conference itself.

Those are the rules under which we worked at Washington and worked as a rule without the slightest friction. The Committee recommends the adoption of these rules.

GOVERNOR WILLSON.—It is moved by the Committee that these rules be adopted.

The motion was seconded. The question being put, it was unanimously agreed to.

GOVERNOR FORT.—Mr. Chairman, the Committee asked me to make a further suggestion. We would like to see the program prepared for this Conference consolidated into three days. Most of the Governors feel that they will be compelled to go home on Thursday night or Friday morning. At least all who came with me on the train said that. We suggest that the program for this afternoon be continued as a morning program with the address on "The Possibilities of the Governors' Conference", by Governor -elect Woodrow Wilson, and strike out the provision for "Organization, Constitution and By-laws", because we do not think there should be a constitution for this association, as we cannot have a constitution that will bind anybody.

On the "Responsibilities of the Governor", Governor Burke who will not be here, was to follow Governor Wilson's address. Governor Hadley will then speak and that will take us through the afternoon session of the program of Wednesday, and we suggest that we consider whatever may be thought to be necessary on "The Powers and Responsibilities of the Governor", and Governor Norris' address on the subject of "State Conservation" shall be for tomorrow. Following that we favor discussion on Conservation, although Governor-elect Dix is not here.

That will carry us down to what you have for Friday at 10 A. M., beginning on Thursday at 10 A. M., and we would recommend that the income tax be not discussed. Most of the Governors have familiarized themselves with that subject, and last January we thought at Washington it was not wise to discuss that question as it might divide some of us on political lines. However, that is for the Conference.

I suggested that the direct primaries be not discussed because I had the subject, but the Committee overruled me. I will try to talk on it, but knew nothing of the fact that I was to speak

on it until I saw the program. I wrote the Secretary about it and was advised that I was not to speak on that.

We also think popular election of United States Senators should not be discussed in this Conference. Now I suppose we all have our views on that subject. I have mine very decidedly and I suppose most of the others have. The Corrupt Practices Act should be discussed. We can, if we are permitted, fix this program so that it will give us three work days of good time, sufficient time to discuss the various subjects, eliminating the subjects of Income Tax and Election of United States Senators by the people. We want to submit this to the Conference without any suggestion except that Governor Hadley will follow Governor-elect Wilson's address this afternoon, and then if it meets the approval of the Conference, we will come in with a modified consolidated report prepared within that time.

GOVERNOR WILLSON.—Any objection or amended suggestion made by anybody.

GOVERNOR HADLEY.—The program seems to be more or less like a railroad time table—subject to change without notice. I can only say that one ought to have given a subject some thought before he speaks upon it. But as is probably the case with most of you, we have had an election out in Missouri and other matters to occupy my time, and I have not had an opportunity to give any thought or consideration to the comprehensive subject of "The Powers, Duties and Responsibilities of the Governor." I think if I could say anything on this subject, I could say something that would be of more interest and helpful tomorrow than on this occasion. I understand also the local arrangements, in so far as the entertainments are concerned, involve some social functions at 5 o'clock, and I am sure there would be a keen sense of dissapointment if we should not have the pleasure of listening to Dr. Wilson for at least an hour. This would leave very little time for the balance of the program. I am disposed to think we can really hasten things by letting the balance of the program go until tomorrow.

GOVERNOR WEEKS.—It seems to me that we ought to know whether that train is going to leave at 10 or 9.30. It seems to me we ought to leave promptly from here at 9.30.

GOVERNOR NOEL.—There are two points that have been eliminated on which I should like to have Mississippi recorded here correctly. This year the Legislature, by practically unanimous vote of each branch, adopted the submission of the Income Tax Amendment and instructed that our Representatives and Senator in Congress vote for the submission of a Constitutional Amendment for the election of United States Senators by the people. We wish the Secretary to note that.

THE INCOME TAX AMENDMENT

GOVERNOR AUGUSTUS E. WILLSON OF KENTUCKY.

I wish to say in regard to the Income Tax proposition, I am afraid the Temporary Chairman is responsible for throwing that bomb into the meeting. As a matter of fact I had proposed, if that came up, to bring before the Conference some reasons that were in no way partisan. While I am a very strong Hamiltonian, when it comes to Kentucky I am a State Rights man. I had intended to present this subject from the States' rights side entirely and I have taken leave of myself to print, and instead of taking up your time in the meeting with it, I am going to submit my views on the subject to my brother Governors. I was very much in favor of the Income Tax and of an amendment to the Constitution which will give the government every necessary power to protect itself in case of war or other great emergency and I am cordially in favor of income taxation, which is the oldest and best system of taxation ever known. It is the tithes of the scripture and never has been improved upon, but on the contrary, every invention since has been for the worse. I shall submit to you in print, without taking your time to read them, my remarks on this subject, which I take up in a way that excludes any partisan consideration of it. It has nothing to do with platforms, but takes up the matter from the view of an important tax needed by the State and not needed by the Federal Government, which spend now under either party nearly a billion of dollars and does not need to take a quarter of a billion out of the States. I started in a pretty good

advocate of the Sixteenth amendment, but the fact that the Federal Congress does not need it and has too much already and the State does need it sorely, and the thought of the feelings of the people of Kentucky if they should be waked up to the collection of several millions of dollars more a year of Federal income taxes with no multi-millionaires to pay their part for them and no relief but necessary increase of the State taxes, changed my views. This paper was as follows:

I believe earnestly in taxing incomes. Practically all taxes are paid out of incomes, and the only just way of calculating a man's proportion of governmental expenses is to take a proportionate part or tithe out of his income. It is the oldest form of taxation the tithes of the scriptures and the many efforts to improve on it in all the various taxing measures have all been failures.

Independent of this reason, it has been a popular form of expression in many platforms, not confined to any one party, that incomes should be taxed and generally the reason for this was a hope that this would result in the men of great wealth paying a larger share of the total expenses of the government than they pay now, which reason is one which of course commands sympathy of more people than the arguments against it. There was a popular idea that the Carnegies and Rockefellers and other multi-millionaires would assume the government expenses. I think it was a mistaken idea and that they would, under an income tax system, pay no larger part of the taxes than they do now, and that the great burden of the income tax will not fall on the rich, but will fall generally on the great mass of the people. Congress already has power to levy a billion dollars of taxes in one session, and except in case of war or other great emergency, it does not need more power. On the contrary, it is quite a common feeling that Congress levies too much in taxes now instead of too little.

On the other hand, there is no question that the States need the money, and there is great reason for the belief, that as income taxes should be levied, the new power of taxation should be given to the States which need it and not to Congress which does not. I should of course favor giving Congress the power in case of war or other great emergency to levy income tax and every other kind of tax.

But if this amendment, as now framed, is adopted, no one who knows the ways of Congress will doubt that then it will proceed promptly to enact an income tax bill without war or any emergency and under that the Federal government will proceed to collect from the people of each State millions of dollars on incomes. The States cannot levy custom's duties nor internal revenue taxes, but they can levy income taxes, and there is no good reason to my mind why the States should give away this power which many of them need seriously, when it will simply take from every State, whether it has multi-millionaires or not, millions of dollars out of the people's earnings.

The question I make is not whether we should tax incomes, for I am in favor of that, but whether Congress shall have power to tax incomes. My own first impression was favorable to this measure to strengthen the hands of the general government in case of war or other emergency.

This amendment reads:

"ARTICLE XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration."

The General Assembly, soon after a caucus resolution, passed a resolution through both Houses, without a dissenting vote, to ratify this amendment, and this resolution was enrolled and signed by the presiding officers of the two Houses and transmitted to the Governor for his approval as required, under the Constitution of Kentucky in case of all joint resolutions. This was done without waiting for the Governor to transmit to the General Assembly the letter of the secretary of State with the resolution of Congress, and as a result of the hasty action, it turned out that the resolution as adopted in our Legislature, omitted the words "on incomes" and seemed to make the action of the Legislature void.

I advised the Legislature, through some of its leaders, of the mistake and the following action was taken to correct it.

The Journal shows that there was a motion *to correct the enrollment* of this resolution and that it passed both Houses. The resolution was not at the time in the hands of either House or its Clerks, but had been actually transmitted to the Governor

and was in his possession and was subsequently vetoed because it omitted the words "on incomes" and there was no attempt to pass it over the veto.

This resolution as actually passed to correct the enrollment was not sent to the Governor, but instead of that some one inserted the words "on incomes" in the first resolution and had copied the first resolution ratifying the Sixteenth amendment, corrected by inserting the words "on incomes" with the amendment copied in full and this resolution which then appeared to have been regularly acted upon by both Houses was not disapproved by the Governor within the Constitutional period.

I state the facts without trying to decide the ultimate result. The resolution, as first adopted, was void and vetoed. The second resolution, as shown by the journal, was not a new resolution of ratification, but was a resolution to correct the enrollment of a bill not in the Legislature's hands or possession, but then actually in the possession of the Governor and vetoed by him and not passed over his veto, and yet a corrected ratification resolution was signed and transmitted.

After this, the Governor sent to the General Assembly the communication of the Secretary of State and the amendment, and it passed in the House of Representatives, and the Senate by a majority vote refused to call it from the orders of the day. The first resolution and the motion to correct the enrollment seemed to have been without jurisdiction, for the action of Congress submitting the Sixteenth Amendment had not reached them through the regular channels nor been referred to them, but was passed from newspaper reports.

It seems to me, therefore, that the General Assembly, of Kentucky has not in fact ratified this amendment, but I leave that question to the parliamentary lawyers.

I prepared a message expressing my views for and against this measure to send to the Legislature, but as both parties had, as I then understood, unanimously adopted the resolution, it seemed idle to send a message simply as a protest.

This income tax amendment, authorizing the Federal government to levy this new great class of taxes on the States, which it could not levy before, is the most serious encroachment on the States' rights since the organization of our government. The

amendment in the plain meaning of the words, gives the Federal Congress an enormous new taxing power, not merely in case of war, but for all time, on the income of everybody in each State and in the words "from whatever source derived," supplies the power which was lacking before this amendment, to tax the income of State officers and of State, county and municipal bonds issued for governmental purposes.

The Supreme Court held the former income tax law void as against State officers on the ground that it might impair the powers of the State government. This section of the Constitution which overrides all State rights corrects that omission and makes such a law valid. Evidently, if this tax is levied by Congress, and we cannot doubt that it would levy it, it will enable Congress to destroy the power of every State, county or municipality to borrow money necessary for public purposes. At any rate, would so impair its power that it could not borrow it at low market rates and would add to the interest on all such public securities some part of the income tax and, worse yet, it would exclude the States from any benefit of the power to tax incomes when necessary for State purposes.

I believe that Congress already has too great power to tax in ordinary times, and that its power should be lessened rather than increased. I know that in the State of Kentucky, the appropriations adopted by law have out-run the revenues raised by law already by more than a million of dollars, and that the State, even with very low salaries as a rule, seriously needs additional revenues to pay its debts and present regular expenses, improve its schools and roads and for other public uses and important charities, such as institutions for the cure of tuberculosis, provisions for protecting the farmers from bad seeds, State experiment stations, further development of the science and study of agriculture, for the State Fair and for many other worthy and necessary purposes for which no money can be collected without new tax revenues.

No platforms nor party resolutions for income taxes, as far as I can learn, have given any thought to the plain fact that this amendment of the Constitution of the Union subordinates to Federal control that great attribute of the sovereignty of the State, the unimpairable power to borrow money. Many platforms favor taxes on incomes, but as far as I can learn, no platform, unless

very lately, has favored this particular amendment or considered the real question at issue, which was not the question of taxing incomes but of taking away from the States and giving the Federal government the power to do it.

The Attorney General of the United States now holds that the corporation income tax applies to income from government bonds and if it governs interest on government bonds, it certainly would include income on State, county and municipal bonds.

Who shall say to Kentucky or to the State of any other Governor here that she shall no longer have the power to tax incomes or to issue bonds free from taxes? Does any member of any General Assembly, who has the power to say it, wish it? Why should our States surrender to the Federal sovereignty this essential attribute of State sovereignty?

This amendment has only started on its way. I see no difficulty in starting another amendment, properly restricted, in place of this, giving Congress power to lay an income tax in case of serious emergency, but leaving out the words "from whatever source derived."

It is true that many well informed people believe that the power, if given, would not be exercised, but can we imagine the great men who framed the Constitution of the United States inviting ratification of that Constitution upon the ground that any powers which might be objectionable would not probably be exercised or would not be taken literally? The true question is, whether this grant of enormous power to the Federal Congress, the greatest grant since the original Constituion, should be surrendered to the United States or not and that is the only question.

Senator Root, notwithstanding his earnest support of a strong National Government, said recently in a public address:

"The framework of our government, aimed, to preserve, at once, the strength and protection of a great national power and the blessing and the freedom and the *personal* independence of separate states. It aimed to do that by preserving in the Constitution the sovereign powers of the separate States."

Mr. Justice Brewer, of the Supreme Court, is reported as having said, not long since, in Milwaukee in a public address:

"The power to tax, as John Marshall said, is the power to destroy. If once you give the *power* to the nation to tax *all* the in-

comes, you give them the power to tax the States, not out of their existence, but out of their vitality."

The true question to which the proposed amendment directs attention, plainly, is not whether or not a tax on incomes of citizens, is a desirable kind of tax to levy but whether, on the whole, we are willing to clothe the Federal Congress with power to lay such a tax on interest on notes, loans and other securities, rents of lands, salaries, profits of farms, factories, stores, earnings of all men and women in whatever work or calling, and all other kinds of income. This is, plainly, a very different question from whether incomes should be taxed. I believe that there might be no just objection to taxing incomes, although if we proposed to tax them in Kentucky, by act of the General Assembly there would very likely be a storm of objections at first, but the question is whether we shall grant a new taxing power to the National Government (when for ordinary purposes it already has too much) except in times of great emergency. The proposed amendment seems to have been framed with a view to avoid the decision of the Supreme Court in the case of Pollock vs. Farmers Loan & Trust Company, in which the court held that a tax on rents was a direct tax, and must therefore, be levied in accordance with the principle of apportionment. The present amendment, however, has been drawn so broadly that its adoption clearly involves much more, and is a grant to impose on the people of Kentucky a Federal income tax unrestricted by the present requirement of apportionment. What other constitutional safeguard have we against possible Federal encroachment upon the sovereignty of the States than that which requires that direct taxes shall be apportioned among the States, and what will remain of these safe-guards if we adopt this amendment?

Before we consider these safeguards, we shall do well to recall that no one acknowledged more thoroughly than Hamilton, "the justness of the reasoning which requires that the individual States shall possess an independent and *uncontrollable* authority to raise their owns revenues for the supply of their own wants." He maintained that, excepting only the duties on imports and exports, "they would, under the plan of the convention, retain that authority in the most absolute and unqualified sense." He added that "an attempt on the part of the National Government to

abridge them in the exercise of it, would be a violent assumption of power, unwarranted by any article or clause of the Constitution." FEDERALIST XXXI.

Are we ready, under the guise of amending the Constitution, so as to permit the taxing of rents, free from the requirement of apportionment, to change fundamentally the "framework of our Government", which, as Mr. Root says, was "aimed to preserve the *personal independence* of the States.?"

If there be one power which it is more necessary for the States to retain unabridged than any other, if they are to "preserve" their "personal independence", it is the power to borrow money. Under the Constitution, as it has stood to the present day, that power *is* unabridged.

In the Pollock case, 157 U. S., 429, 583-6 (1895), the Supreme Court said without dissension:

"Another question is directly presented by the record as to the validity of the tax levied by the Act upon the *income* derived from *municipal* bonds.* * * The Constitution contemplates the *independent* exercise by the nation and the States, severally, of their constitutional powers. As the States cannot tax the powers, the operation, or the property of the United States, nor the *means* which they employ to carry their powers into execution, so it has been held that the United States have *no power* under the *Constitution* to tax either the *instrumentalities* or the property of a State. A municipal corporation is the representative of the State and one of the instumentalities of the State government. It was long ago determined that the property and *revenues* of municipal corporations are not subjects of Federal taxation. Collector vs. Day, 11 Wall, 115; U. S. vs. R. R. Co., 17 Wall, 322, 332. In Collector vs. Day it was adjudged that Congress had no power, *even by an act taxing all incomes*, to levy a tax upon the salaries of judicial officers of a State, for reasons similar to those on which it had been held in Dobbins vs. Commissioners, 16 Pet., 435, that a State could not tax salaries of officers of the United States."

The court cited U. S. vs. B. & O. R. R. Co., 17 Wall, 322, as holding that Congress could not tax the income on railway bonds held by a municipal corporation even though "the revenue thus adjudged to be exempt from Federal taxation" was not "held by the State or by the municipal corporation for any specified public

use, but was part of the *general income* of that corporation held for the public use in no other sense than all property and income belonging to it in its municipal character must be held."

The court then continued as follows:

"It is contended that although the property or revenues of the States, or their instrumentalities cannot be taxed, nevertheless the *income* derived from State, county and municipal securities can be taxed." and met that argument by the following quotation from Marshall, C. J., in Weston vs. City Council, 2 Pet., 449, 468:

"The right to *tax* the *contract* to *any* extent, when made, must operate on the *power to borrow*, before it is exercised, and have a sensible influence on the contract. The extent of this power depends on the will of a distinct government. To *any* extent, *however inconsiderable*, it is a *burthen* on the *operations* of Government. It may be carried to an extent *which shall arrest them entirely*."

And here we may well remember the oft quoted decision of Chief Justice Marshall that "the *power* to *tax* involves the *power to destroy*," and it seems to me a very serious question whether we shall give or refuse to give to the Federal government the "power to levy and collect taxes on incomes from *whatever* source derived."

Does the title to this amendment fully indicate its purpose any more than a platform declaration in favor of taxing incomes endorses this particular amendment? Could it not be justly called an amendment to give to Congress the power to tax not only all private incomes, but also all the instrumentalities of municipal, county and State Governments, and if it does do this, can any one who believes in our dual form of government and in up-holding the power of the States just as earnestly as we uphold the power of the government, consider it with favor? If this amendment shall be adopted, who can say, truly, that he knows it to be sure that the Supreme Court, if this amendment shall become a part of the Constitutional and fundamental law of the land, will hold that when the people voted to clothe the Congress with power to tax "incomes from *whatever* source derived," they did not really mean to say, as they have said, "from *whatever* source derived," but meant to exclude such sources as had been held *before* the amendment to be exempt from the Federal taxation, and who can guaran-

tee the declaration that if Congress has the power to tax all incomes, it will not exercise it, not only on incomes usually taxed but on all, great and small.

Congress has already tried to tax salaries of State officers and the income derived from municipal bonds. If we now expressly confer, in terms, the power to do so, do we not at least give the chance for, if not invite, its exercise? Can we be sure that it will not be persuasively argued that this amendment was adopted for the purpose of giving the power, which the Supreme Court refused, under the Constitution before this amendment was offered, and that this was one of the purposes of changing the foundation law of the government?

I believe that the Government ought to have the power to lay an income tax for war purposes or other great emergencies and this need could be satisfied by preparing an amendment to give that power in such contingency only, but even then, unless the instrumentalities of State, county and municipal governments should be excluded, that power might destroy those governments to save the national government.

Again, while this amendment in express terms, excludes the restriction of apportionment, it does not require, but may be argued, destroys, by implication if not directly, the further requirement of uniformity, for uniformity is required by the Constitution only in the case of "duties, imposts and excises," but the tax which this amendment gives power to lay is denominated in terms and is in fact a "tax" and not a "duty, impost or excise." Thus it presents the anomaly of a Federal power of taxation absolutely unrestricted and entirely opposed to the present principle of the Constitution, which requires that, in every instance, a Federal tax shall be controlled either by the rule of apportionment or the rule of uniformity.

Governor Hughes, of New York, had presented some objections to this amendment and I wrote to him last winter before there was any suggestion of his appointment to the Supreme Court, arguing against his view before I had formed my opinion on the amendment. His answer was so strong that I take pleasure in quoting from it liberally. He wrote:

"I am much interested in your observations regarding the proposed income tax amendment. I am heartily in favor of giving

to the Federal Government all necessary power, and particularly of giving it power to lay an income tax without apportionment. But I am also impressed with the importance of maintaining our State governments with their essential efficiency unimpaired. * * * The action I have taken was the only action, according to my point of view, which I could conscientiously take as a State Governor.

"Of course I know that the words "from whatever source derived" will ultimately mean whatever the Supreme Court decides them to mean. It is possible that the court may hold that the words do not mean "from *whatever* source", but only from some sources. But certainly the words of the proposed amendment permit, if they do not require, the court to hold that they mean precisely what they say. I do not see why, in making this grant of power, we should be compelled to speculate upon what the decision of the court may finally be upon a matter of such importance. Probably the justices who decided previous cases bearing upon the power to lay an income tax did not anticipate that such a decision would ever be rendered as was reached in the Pollock case—very likely some of the justices who sat in the Pollock case were surprised that the court should change what so many had believed to be an established doctrine of constitutional interpretation.

"Whatever may be the present implied restrictions upon the power of Congress with regard to taxing in effect the instrumentalities of State government, these restrictions *can* be done away with by constitutional amendment; and we are not dealing with a statute, but with an amendment containing a grant of power in words which might be taken to indicate an intention to nullify all previous restrictions.

"If it is desired to safeguard the rights of the States and protect them with regard to their own securities and those of their municipalities, it is a very simple matter to frame an amendment which will be unambiguous, or at least to leave out such all-inclusive words as certainly at the best raise a very serious question. There is no reason that I know of, if Congress really desires only the power that it should have, which would prevent the presenting of an amendment in appropriate language. We do not know what the coming years may bring forth, or what the attitude of the Supreme Court may be or may continue to be; but we do know

the natural meaning of words, and appreciating the supreme importance of an amendment to the Federal Constitution, we ought to be able to express ourselves without doubt in respect to a matter of fundamental concern to the States.

"The conflict in the views of critics is both amusing and significant. Some insist that it is so clear that Congress ought not to have the power to tax the securities of the States, that no amendment should grant such a power, and that the doctrine as to the immunity of State instrumentalities is so well established that the comprehensive words of the present amendment would not be taken to have the scope of their literal meaning. Others, however, are equally insistent that State and municipal securites should not have immunity from the proposed taxation, and that not only does the proposed amendment include them, but that this inclusion is a positive recommendation.

"The debate when the Wilson-Gorman bill was before the Senate and the effort was made to exclude State securities from its purview is illuminating as to the intention to include them. From what I can gather, there is a good deal of confusion with regard to the subject, and a considerable body of opinion that they should be included in an income tax act. In the face of the language of the amendment, knowing what a constitutional amendment really is, as a new grant of power, it seems to me that those who believe that State securities should be exempt from the Federal taxing power should oppose the amendment; and that the amendment should not be supported on the theory that it will not be ultimately construed to confer the power, or if conferred, that the power to reach State securities will not be exercised.

"But I have not the time to go into the question at length. Great as is my esteem for the present justices of the court, the question is not what they or some of them now think might or should be the limitation by construction of the proposed power, nor what you or I, if sitting on that court, would decide upon this question of construction; but whether State officers should favor the ratification of an amendment in this form. It certainly puts it within the power of Congress to assert, and of the Supreme Court at some future day to hold, that incomes that are derived from State and municipal securities are subject to Federal taxation."

This proposed amendment is the first and only one expressly increasing the tax powers of the Federal government beyond those powers originally granted to it in explicit terms by the Constitution, and therefore we ought to subject it to careful and thorough discussion because it is far easier to prevent a serious mistake by defeating it than to correct it by a subsequent Constitutional amendment. It has already been ratified by seven States, Illinois, Georgia, Alabama, Maryland, South Carolina, Oklahoma and Mississippi. The latest platforms of both parties favor it in twelve States, Ohio, Maine, Iowa, New Hampshire, Indiana, Wisconsin, Montana, Kansas, Idaho, Nevada, North Dakota and Colorado. The Republican platforms in California and Utah and the Democratic platforms in Connecticut, Minnesota, Pennsylvania, Massachusetts, Nebraska, Rhode Island, Vermont and Tennessee favor it, and this measure seems part of a general and very commendable movement towards readjusting the burdens of taxation more fairly, and it is plain that the subject of readjustment of taxes will be brought before the Legislatures of many States, and in some form will find a place in many of the Governors' messages so that a frank and free discussion by this conference should be of value to all of the Governors.

It involves three questions:

1. Shall the States surrender and give to the Federal government this additional power to tax incomes, or should they reserve this power to themselves?

There is a general feeling that the charge of extravagance against the Federal government is just and that Congress spends more money than it ought to spend, and if that is true, there could be no wisdom in putting within its grasp this large amount of revenue from a new source which it has no right to use now. It is plain that Congress has more than ample power for all its needs and not denied that the careful administration of the government could be had for a great deal less money. The Postoffice Department reducing the expenses ten million dollars a year without impairment of the service, seems strong evidence of this. The many plans for retrenchment and for economical discharge of Federal duties strongly support this idea. The millions of dollars which would be taken from the people of every State to put into the Federal treasury from all classes of people except perhaps

the poorest, is a very serious matter not only to all of the people, but to the State, the counties, and the cities. These millions of dollars, kept in the State instead of taking them to Washington, and devoted to lessening the direct property tax or other general taxes, would tend to lighten the burden on most of the people and could be devoted to the improvement of education, extension of good roads, public charities and other wise measures needed for the proper care and comfort of the people, instead of a scourge of new Federal officers and extravagancies.

2. Whether the amendment is proper with its present phraseology? I have shown, I believe, that it should leave out the words "from whatever source derived" or except salaries of State officers and interest on State, county and municipal bonds for public purposes.

3. Would it not be better to modify the amendment so that it could only be in force in time of war or national peril without granting the power to the Federal Congress to impose the tax in time of peace? If there is any place in literature where words should be carefully chosen and earnestly scrutinized, it is in the amendment of the Constitution of the United States. In expounding this Constitution "every word must have its due force and appropriate meaning, for it is evident from the whole instrument that no word was unnecessarily used or needlessly added." Because of changes of residence of the wealthiest citizens from one State to another and seeking refuge in the lack of uniformity of the laws in the different States, at present, the Federal government, covering all of the States, would have the ability to collect the ncome tax, but not the right, and the States have the right but not the ability.

To cover the two points, an amendment has been suggested in place of the proposed amendment, which provides in substance that Congress shall have power to lay and collect taxes on incomes from whatever source derived, excepting the incomes from State securities without apportionment among the several States and without regard to any census or enumeration. These taxes, except in times of National peril, to be distributed among the several States for their use and support according to the amount collected from each.

The only argument in favor of this, in so far as it provides for

the income tax to be distributed among the States, is that the collection of revenues by the United States is done very much more thoroughly and at very much less expense than it is by State officers.

I have taxed your time and patience with this matter and the views here quoted at length because of its great importance and because it seemed to me by far the most important matter before the Legislatures and the Governors.

As Governor of this Commonwealth, I felt that it was my duty to the people not to have this extraordinary grant of Federal power over the States, not contemplated by the founders of our government, made in the name of the people of Kentucky, without at least enough discussion to cause the matter to be thought over by the people and to bring out from them something to show their wishes, stronger and more convincing than a caucus resolution adopted without discussion, but what was done was with such haste that I had no chance to warn them or the people.

The devotion of the people of Kentucky, to the Constitution and to State rights is so strong and so often repeated, again and again, from year to year and generation to generation, that it seemed to me that the General Assembly, as representatives of the people, and the Governor, as the Chief Executive of this Commonwealth, had no right to treat lightly this traditional and settled view of our people on our plan of government.

It has come to be common for Congress to appropriate a billion of dollars in one term. If the income tax amendment, with its enormous further grant of power to the Federal government over the State governments, shall be made, who can say that whichever party prevails, we shall not soon have Congress appropriating a billion and a quarter of dollars with Kentucky's share six millions of dollars?

It seems to me that the danger of giving a chance to do that is greater than any present inconvenience from the lack of power in the Federal government to levy more taxes upon the people for Federal use, additional to the enormous taxation already levied. Neither the platforms or parties or multi-millionaires will pay it for us, we the people must wear the yoke of the additional millions.

Looking at the matter from the standpoint of the Commonwealth of Kentucky alone, the Federal government is now col-

lecting from the people of Kentucky more money to run the Federal government than the State is collecting to run the State government. If this amendment is ratified it may put on Kentucky as much more. The State income is not enough to pay the expenses of the State government as ordered by the General Assembly. It may be a close question whether this amendment will receive the approval of the legislatures of three-fourths of the States. It may be that the approval of any one State will be the deciding vote. If this amendment is made part of the Constitution and Congress acts under it, it is not impossible that the Federal government will take from Kentucky people in each year on taxes on incomes several million dollars more, and if the General Assembly makes that grant of power, it may be that it will be the vote which will result in citizens of Kentucky having to pay the Federal government millions of dollars more of taxes on incomes every year. I have not calculated the amount, but merely use this sum for illustration.

The State needs more than a million dollars a year additional taxes and it has the power now to levy an income tax which will pay the deficit and the new appropriations. If we are willing to give the Federal government the power to take this money from Kentucky, when the Federal government already has enough and more than enough, why shall we not at once levy an income tax in Kentucky to pay our deficit and our new appropriations? Will it be any harder for the State to take it, which needs it, than it will be for the government to take it, which does not need it? Shall we vote to let the Federal government take an income tax from Kentucky and refuse our own State government, Legislative, Judicial and Executive, and the creditors of Kentucky the same tax when they need it? Justice as well as charity begins at home, and we ought to pay our debts and support our public institutions properly before we make lavish grants of new and extraordinary powers of taxation to the Federal government. I trust that if the General Assembly is in the humor to have an income tax it will use its power to impose it for the benefit of Kentucky and not for the Federal government.

Is there apprehension that a State income tax would cause a storm of protest? If there is, how much greater will be the protest and distress of our people to learn, by and by, that without

discussion or thought or care we have given the Federal government a new power not intendered in the first Constitution, to collect a United States income tax and use it for National purposes when we need it for State purposes? Shall we object to raising a million dollars for education, good roads, asylums, prisons, or increased salaries, protection of public health, conservation policies, and other matters of concern to our people and then give away millions a year to the Federal government from which we shall have no benefit comparable to what we could have from the other?

When the Federal government now collects millions of dollars from Kentucky, shall we approve this amendment and give it power to collect millions more? If the General Assembly does not even think of adding a few cents to our present tax rate to pay honest debts for moneys appropriated by the General Assembly, shall it give, without question, a chance for the Federal government to collect a million or more dollars a year when it refuses to levy a tax to pay our State debts?

My only wish and effort has been to know what is best for Kentucky, truest to the convictions and traditions of our people and the unbroken history of our State in regard to true State's rights.

I wish to acknowledge my indebtedness to Governor (now Mr. Justice) Hughes, Mr. Austen G. Fox, of the New York Bar, and our Secretary, Mr. Jordan, for many valuable suggestions which I have used in this paper.

GOVERNOR WILLSON.—It will be understood that suggestions with reference to condensing the program are open for consideration.

GOVERNOR FORT.—The Committee recommends that Governor Draper preside at tomorrow's meeting. I move that the Committee be authorized to consolidate the program within three days. If we find we are running out of material the next day, we can suggest that the Conference take up other subjects.

GOVERNOR NORRIS.—The real program or the social part?

GOVERNOR WILLSON.—I wish to say about the social part, there were several entertainments offered for every one that we could ac-

cept and we have understood that this is a very important conference not met merely for pleasure, and have attempted to arrange the program of entertainments hereafter so that it cannot possibly interfere with the hours that we shall be in the meetings. We cut out a trip to Lexington where you would see beautiful bluegrass farms and where they are wonderfully anxious to pay you the tribute of their cordial and friendly respect, a very distinguished people and elegant people. We wish to give you pleasure in the odd hours and assure you that there will be no entertainment to conflict with the sessions. For the ladies who are here, there will be something to interest them every momnet. Shall we proceed now with out further motion under the suggestions? Is it the wish of the Conference that we proceed?

GOVERNOR HADLEY.—I think I can solve this situation, in so far as my part on this program is concerned. I did not see a copy of this program until Saturday. There will be no useful purpose accomplished by a general discussion by me of the "Powers and Responsibilities of the Governor." Those are matters largely fixed by Statute or established practice in the different States. I think the objects of this conference will be best subserved by dealing with the concrete and not by dealing with the abstract. Upon Thursday, there are two subjects, the subject of Conservation of Natural Resources, and the subject of Conservation of Human Life. If there is any subject on which I could address the Conference, it would be upon the second classification, "Conservation of Human Life" in so far as it relates to Employers Liability or Workmen's Compensation Law. A commission is now working on that subject in my State. I would suggest that the subject, "The Governor, His Power and Responsibilities," on account of the absence of Governor Burke and the fact that I have nothing to suggest on that general subject that everybody here does not know, be eliminated, and if it is desired by the Committee that I speak at all, I speak on the Employer's Liability Law and Workmen's Compensation Law at such time as it may be convenient.

GOVERNOR FORT.—That is entirely agreeable to the Committee who are sitting here together, and we are entirely agreeable to that and we hope the motion which I have made will be adopted.

That motion was that we be authorized to consolidate the program within three days as suggested.

GOVERNOR HADLEY.—I second that motion.

Upon being put to vote, the motion was unanimously adopted.

GOVERNOR WILLSON.—If the Conference will bear with their talkative Chairman, I wish to say that the subject of the Governor's Powers and Responsibilities, which my friend, Governor Hadley, has thought would really not be useful to us, has occurred to me as the one thing in which all Governors are most concerned and it has been my experience that there was nothing on which I needed help more than on that subject. Just for a moment's illustration. It is a question really of the division between the Legislative, the Judicial and the Executive. Thirty years ago we elected a Librarian at $1,000.00 and then $1,200.00 a year. It was purely an administrative office, and it has been held Legislative and I really believe that it has cost Kentucky five millions of dollars in actual injury and loss of probably $40,000.00 salary in all those years. We have other administrative officers elected taken over into the Legislative field, which are properly a part of the Executive power. Upholding the rights of the Executive Department of State Government I had thought was one of the most important things. It is really a thing too many of us need to advise ourselves about. We too often shrink from asserting our right to administration appointments and we destroy the plan of government of the United States of America and every State. It is the most vital thing that we need to consider and discuss at every meeting for all time, and I confess my disappointment that it is so little considered and so lightly thought of.

I am so much obliged to you for bearing with me. I have realized we have no school to teach the Governors how to do their work and this Conference should be worth far more than this to our country in its information for the benefit of the men who are in the possession of authority in executive matters than this treatment of this most important of all subjects to Governors' powers.

GOVERNOR HADLEY.—Gentlemen of the Conference, may I ask that Governor-elect Woodrow Wilson, address us on the subject, "The Possibilities of the Governors' Conference."

THE POSSIBILITIES OF THE GOVERNORS CONFERENCE

GOVERNOR-ELECT WOODROW WILSON, OF NEW JERSEY.

We are met together to take counsel. No doubt there is much else that we gain by coming together besides a knowledge of each other's views with regard to large public questions. We take stimulation from one another. We are drawn together by friendliness and sympathy and the common interests of similar tasks. We learn to know one another, not only, but also to know better the great country which we serve—to know it in its variety and with a touch of intimacy and reality which would not otherwise be easily possible. But our main object is counsel, sober and deliberate conference upon great questions and problems of State upon which we would, if possible, be guided by full knowledge and by clear principles of action.

Why should we organize such a counsel upon such matters of common concern? Do we draw together simply as friends, or has there arisen in our minds the thought that we have some quasi-constitutional function? Are we seeking, in this voluntary fashion, to supplement the Congress of the United States? Is there in our minds something that the Congress does not or cannot do which we, perhaps, can do? Clearly we have neither the right nor the wish to invade the sphere of any regularly constituted organ of government. What, then, is our purpose? What do we seek?

Certainly our institutional life need not confine itself to the processes explicitly defined in our constitutions. It cannot. Life has proceeded out of those constitutions. Our life as a nation has waxed strong and abounded; it rises limitless to the eye and to the comprehension. It outruns constitutions. I do not mean that it runs counter to them or that it threatens to set them at naught. I mean simply that it transcends all forms and definitions; presses on from age to age its own will, without asking how it is to adjust itself to formulas or to lawyers' conceptions; fuller of mere energy than of careful thought for law. It is as

various as it is boundless. It is impatient of the restraints of law. It displays itself in ever new and varying fashion. It often eludes classification and order. It is in this sense that it outruns our constitutions and must ever do so so long as it thus abounds with an irresistible vitality.

And so it is plain to be seen by any, even the most casual looker on that our constitutional life is constantly changing; I mean the uses to which we put the powers of our Legislatures, or our executives, and of our courts. Not only is the series of constitutional decisions of any one of our supreme courts a history of change and constant, though related, variation, but there is a whole sphere of experiment, of influence, of varied action which the courts never touch, where forces play which never settle to any such form as can afford the courts subject matter for decision—the rules of legislative bodies, the personal relations of executives and Legislatures, the action and organization of parties, the interplay of all those intangible forces of agitation and quiet opinion which affect legislation and the public thought in communities great and small, States, cities, homogeneous regions that span whole groups of States, climatic or social or economic units which have a consciousness and a movement of their own and whose life springs into forms native, natural, distinctive.

The thing we are here trying to do is to co-ordinate and form some of these otherwise vagrant forces. It is an extra-constitutional enterprise, but natural, spontaneous, imperative, perhaps creative. If it is not constitutional in kind, according to the strict uses of that word in America, it is at least institutional. If these conferences become fixed annual events, planned for and carried forward from year to year as an habitual means of working towards common ends of counsel and co-operation, this council will at least become an institution. I do not know how better to define an institution than by saying that it is an habitual and systematic way of doing something which calls for co-operation and a certain union in action.

If it grows into a dignified and permanent institution, it will be because we have found it necessary to supply some vital means of co-operation in matters which lie outside the sphere of the Federal Government, matters which the States must regulate but which they find it to their interest, and to the interest of the coun-

try as a whole, to regulate according to common principles and a very careful adaptation to conditions which no one State can control—matters in regard to which they ought to act, not necessarily alike, but with a careful regard to imperative consideration of general policy which can be differently applied but cannot safely or wisely be differently conceived. In brief, we are setting up, outside the sphere of the Federal Congress, a new instrument of political life, national in its character, scope, and intention; an instrument, not of legislation, but of opinion, exercising the authority of influence, not of law.

It is odd how every process of our national development has sooner or later swung our thought back to the Federal structure and action of our Government. After all, the main fact about our national life whenever we come to speak of politics is, that its action is dual, that the power of government has been parcelled out between a central government and nearly half a hundred States, to which is assigned almost the whole body of the ordinary business of legislation, of economic and social readjustment from age to age. We are not likely again, in considering this complex arrangement, to use the terms of the old States-right controversies. The embers of old passions which once set a whole nation aflame still glow warm at the heart of the ashes which lie piled high upon them, the ashes of bitter conflict. It would not only be imprudent, it would be very misleading, and would give our thought about matters now to be handled an artificial and antique setting. We are speaking now of the matters of another day, a day of peace and concord and accommodation. But we are speaking of the same old subject.

It is interesting to note, however, how different, how altogether new our specific trouble is. We are now disturbed to find, not that the interests of the States are so different and apparently so antagonistic in respect of the matters in which they are authorized to act separately and in virtual independence of each other that they wish to draw apart and are watching each other with jealous differences of purpose, but that their interests are similar, in many things almost identical; that they recognize that a wise co-operation is desirable not only but imperative in the common interest and for their own safety and prosperity, but they lack the means, the instrumentalities that would serve them in their new

community of action. They are seeking a common policy and lack the means of common counsel. They are looking for common ground, but must look for it separately and in isolation. They are in the same case, but not in the same boat. They must seek the same course under different captains and with different crews. They should act together, but inevitably find co-operation more difficult than action under a common authority.

Their variety and their autonomy are, in my opinion, worth all they cost. If our system of States had not come to us by historical necessity, I think it would have been worth while to invent it. Our people are spread abroad upon a vast continent; they live in many latitutdes, under many skies, amidst hills and plains and valleys which would in another age have been the seats of as many kingdoms, the homes of independent peoples; every sort of soil under their feet, every varied resource of mine and forest and watercourse, of lake and sea and mountain covert, at their hand, to multiply their undertakings and complete the tale of their unbounded variety. Uniform laws would intolerably embarrass them. Their affairs are not alike, and cannot be made so by compulsion of law.

Moreover, by their free self-government they are put upon their mettle. They are bound together into communities; they are compelled to study and comprehend their own particular interests, and to depend upon themselves to work them out. They are forced to contrive their own salvation, to depend upon their own sagacity and intitiative, to develop their own lives by their own means. Nothing moves faster with them than it can move by the force of their own convictions, by means of what their own sense and experience suggest. They grow in institutions and in material force by compulsion of their own necessities, their own characters, their own circumstances. They must rely upon themselves. Not even imitating will serve their necessities, for they must adapt everything that they touch to their own case. We are a vital and a living people because over every mile of our territory we have been obliged to build with our own hands out of material that was of the time and place. Every commonwealth has been a nursery of new strength; and out of these nurseries have come men and communities which no other process could have produced. Self-government has here had its richest harvest.

Democracy has had amongst us, therefore, its freest possible field. Every State has been free to make itself at will an experiment station in the varying work of reform and readjustment. We have not had to wait upon the slow and cumbrous movement of a great national body, embarrassed in all its processes of change by the fact that it served a various people, a multitude of communities which differed with an infinite variety in the character and accompaniments of their affairs and of their settled interests. Each State could follow its own fresh and native impulses and try its own vital experiments at its own time and choice, boast its own success, repair its own mistakes. There is no overestimating the vivid interest and importance of the multifarious process. Communities old and young were united in a common life and yet lived after their own fashion, followed their own characteristic ways of action, without friction or interference. One would not have wished to impair the quickening variety. No single congress could have guided or determined the life of such a people.

But meanwhile common influences spread themselves throughout the multiform body politic. The last sixty years have seen the great continent knit together by systems of railways and telegraph and telephone. More and more completely has the network spread over every region and quarter of the great area. With the perfecting of the means of intercommunication with the swifter and swifter movement of trains, the more and more rapid growth of traffic, business has spread itself with a new organization and volume. As it has spread it has been interwoven, in actual organization as well as in the rapid interchange of goods. The organization of business has become more centralized, vastly more centralized than the political organization of the country itself. Corporations have come to cover greater areas than States, have come to live under a greater variety of laws than the citizen himself, have excelled States in their budgets and loomed bigger than whole common-wealths in their influence over the lives and fortunes of entire communities of men. Centralized business has built up vast structures of organization and equipment which overtop all States and seem to have no match or competitor except the Federal Government itself, which was not intended for such competitions. Amidst a confused variety of States and statutes stands now the colossus of business, uniform,

concentrated, poised upon a single plan, governed, not by votes, but by commands, seeking, not service, but profits.

No wonder we began to turn to the National Government, to cope with it, to regulate, in the name of the soverign national itself, what had become a force as great as the nation in its scope and consequence. The influence to be dealt with extended from one end of the country to the other. The great organizations of business seemed to play with the States, to take advantage of the variety of the laws, to make terms of their own with one State at a time, and by one device of control or another to dominate wherever they chose, because too big to be dominated by the small processes of local legislation. No machinery seemed to stretch to the size of the task of regulation except the machinery of national legislation at Washington, the long arm of the executive that could be stretched forth from a national capital to every remotest nook and corner of the land. No wonder the instinct and inclination were to resort to Washington for relief and protection. The need was great and the Government was powerful.

But this intimate task of regulation was not one for which its constitution had furnished it with actually suitable or entirely adequate powers and authority. Only the States were fully equipped with the legislative and executive power to handle at will and as they pleased this new organization of business and manufacture. A new problem was presented to us. We still did not desire rigid uniformity of law, even in these matters of common concern. It was still desirable that the States should adapt their regulation and restraint of the new forces to their own conditions of life and circumstance. To put Federal law back of the great corporations would have been to give them the right to dominate and override local conditions, to equip them with the majesty and supremacy of the law which created and regulated them, and to level the variety of communities before them. No absolute, uniform set of rules are likely to fit the infinitely various circumstances, of the States and their people. Hence this conference. We have no foolish or pedantic jealousy of Federal power. We believe in the exercise of the Federal powers to the utmost extent wherever it is necessary that they should be brought into action for the common benefit. But we do not believe the

invention of Federal powers either necessary or desirable. We are not attempting a task of mediation; neither are we trying to fend off revolution. We are striving neither to defend the States nor to resist the development of the Federal Government as the instrument of the common life of the country. Our function is one of leadership. Leadership, I take it, is a task of suggestion, of adaptation, of the quickening of thought and the devising of means. It is our privilege and duty to study the problems common to all the States, and to suggest the means by which the States, without loss of their natural variety or of their opportunities of local adaptation, may yet freely throw their energies into a common task of protection and development, as if in the spirit of a single commonwealth, their measures varied but their purpose the same. Our effort to render this service may result in the setting up of one of those voluntary institutions of counsel by which the life of free countries is enriched, both in action and in opinion. We shall be all the more sober, I believe, because we speak by no authority but that of reasonableness and good sense. Where we go astray we bind no one; where we are right we shall prevail.

For the country awaits, sober, disinterested counsel, and will follow it. It desires it in nothing so much as in those affairs in which the States have power and can control, but do not. And this is the body of men who are expected to lead. The people of our commonwealths, as well as the people of our nation, desire leadership—are calling for it with some impatience. They cannot find it in their legislatures amidst the confused medley of committees. There is no one in any legislature who represents the whole commonwealth—no one connected with legislation who does, except the Governor. Everyone else represents some section or locality, except, indeed, the lieutenant governor, who is expected to be as discreetly quiescent as the Vice President himself. Legislative procedure is full of ambushes and coverts. It is hide-and-seek to follow a measure through its passage. Only those upon the spot can ascertain or comprehend what is going on. Debate upon the floor of our assemblies has gone out of fashion; it is now closeted with committees and caucuses. Opinion, consequently, is turning, for information and guidance to the few men who are representatives at large, to the President and the governors of the States, men chosen, by however whimsical

or hap-hazard a process, for leadership by the whole electorate.

We ought not to allow ourselves to be pedants, stickling at words and phrases. We ought to deal with realities, and deal with them very frankly. Let us distinguish legal power from personal influence;the two things ought to be easily distinguishable. A certain amount of legal power every Governor has. Every Governor of a State is by the terms of the Constitution a part of the legislature. No bill can become law without his assent and signature. It can be passed over his veto, but only by deliberate process and generally only by more than the vote of a majority. His legislative vote, so to say, is never less than that of half of the legislature. He has the right of initiative in legislation, too, though he has so far, singularly enough, made little use of it. It is the popular notion that the governor has, in respect to legislation, only the message power; but the language of most of our constitutions is the same, is the language of the federal constitution also. It gives him the right to recommend "measures," and it does not limit him in respect of the form in which he shall make the recommendation. He can make it in the form of bills if he pleases.

Of course his recommendations may be treated as the Houses please. Like private members' bills they may be given the decent burial of reference to a committee. They may be considered or left unconsidered. He has no place on the floor and must get his recommendations considered by such means as he may honorably use outside the chambers. There begins the sphere of his personal influence, as distinguished from his legal power. His personal influence is the power of his character and of his ability to convince and persuade. Coercion is out of question. It is absurd to speak of it. We are not children; we are speaking of grown up people and of realities.

Governors have a means of coercion. They can use their power of appointment to get votes and offset opposition. But they are only fools for their pains when they do. They lose credit with the very people from whom the power came. They lose respect and standing with honest men; and it is the respect of honest men, the support and faith of honest men, that is their source of might. Their real power over a legislature is their ability to convince the people. If they can carry an opinion through the

constituencies, they can carry it through the legislature. No legislature need be jealous of that, unless it be jealous of putting public questions upon a footing of open and frank debate. The field is free,—as free for those who oppose the governor as for the governor himself. The best arguments, the handsomest motives, the most valid and straightforward purpose, the most defensible programme wins. It is too late, moreover, to be jealous of that method of control. The people are ready for it, wait for it, demand it, expect all who hope to serve them to accept the ordeal. No real man who speaks his real convictions need be afraid of it. The jury is not packed, cannot be "fixed". It is the people themselves.

I am sure that I am not mistaken when I say that the people are calling for open leadership, and that they wish their leaders to be men who represent them all. They are tired of the hide-and-seek of legislation as it has generally been conducted. We shall not bring clear action out of confusion until we supply the need, until we assist at the simplification which will inevitably come when some one man undertakes in each State to keep the people informed as to every chief step of their business, particularly of the business of legislation, and to challenge all who are engaged in it to submit to the frank and clarifying processes of debate. There is no executive usurpation in a governors undertaking to do that. He usurps nothing which does not belong to him of right, uses no power which would not belong to him whether he were governor or not. He employs nothing but his own personal force and the prevailing power of his opinions. He who cries usurpation, against him is afraid of debate, wishes to keep legislation safe against scrutiny, behind closed doors and within the covert of partisan consultations. We are consulting here because the leadership of half a hundred commonwealths calls for consultation among the leaders wherever many weighty matters must in the common interest be managed to a common end.

This, as well as our individual leadership in our several commonwealths, is, by intention at least, a simplifying process. Consultation always is a simplifying process, when it is frank and is intended for the common interest. We wish to simplify our tasks

of leadership by making ourselves acquainted with all the elements of the complex problems we are called upon to deal with. That we can do by informing ourselves and by informing one another. We shall by our leadership under such influences bind our States together more truly than ever before into a nation, whose standard and aims are the same, however different may be their forms of action, however various their several measures may be in their adaptation to time and place and circumstance. Co-operation amidst variety is what we seek. If we find it we shall in a new age of energy illustrate once more the American genius for affairs, for the making and use of institutions.

I have already stated our problem in general terms. It is how to make our States efficient instruments wisely used in the regulation of economic conditions which have been organized upon a scale, and must continue to exhibit themselves upon a scale, that is nation wide, no State being more than a part, and generally a small part, of the territory which they cover. It is the problem of railway regulation and of the regulation of the many other vast corporations whose business spreads like a network over every part of the country. We speak of public service corporations and of those which are not public service corporations, and there is of course a difference, a clearly marked difference, between them; but when we speak of modern business is it speaking of reality in any case to speak of a modern corporation as a private corporation, of its business as private business? It acts only upon license. Its transactions are interlaced with the whole of modern life and set up the conditions under which that life goes forward. This is in no sense a private matter. Our corporations are not dealing with individuals so much as with communities. If those who conduct them would look at their business from that point of view and conduct themselves in the temper and spirit of public servants there would be no need of regulation. So long as they do not, so long as they transact their business in the spirit of those who manage private affairs, for private gain and not for public service, regulation will be necessary. Individual affairs and public interests must be accommodated, and the public interests, not the private advantage, must be the standard of regulation and accommodation.

Here then, in more particular terms, are the large items of our

tasks, as we must view them in counsel together. There is, first, the task of regulation; for that we seek common principles, common ideas and aims, at the same time that we recognize that these common principles must be put into effect in our several States in somewhat different ways, in order to serve local needs and conditions. We seek co-operation but can wear no straightjacket. The task of right regulation, for example, in the case of common carriers, in particular, whose business spans a score of States, is a task in which we must co-operate, with one another and with the federal authorities, though it may be that local regulation may without injustice or serious breach of common practise be based upon different calculations and different elements of business in different commonwealths. Variety will not impair energy if there be genuine co-operation and a real common understanding such as we ought to be able to bring about.

For our problem, looked at from another angle, is one of co-ordination. I am not now referring to the important matter we are so much concerned with in regard to uniformity of laws; the laws of marriage and divorce, for example, the laws of commercial transaction, and those many other matters which so vitally effect the morals or the inconvenience of our scattered communities. I am thinking of the matter of forests and water sheds and mines, of the great tasks of sanitation, of the treatment of epidemics, the care of the poor and the restraint of the vagrant, of the safe-guarding of labor, and all that long list of vital interests with regard to which we can do so much more if we act together and upon the same common plan.

Conservation is a very much bigger subject than would appear from many of our discussions of it, and it is a much more difficult and intricate subject for the States than for the Federal government. The greater part of the resources of the country are outside the bounds of the federal domain and there is much more to conserve than what we generally include under the term natural resources. The vitality of the country, lies chiefly in its people, in their moral wholesomeness and their physical strength and soundness. The purification of our life and of our politics is a central matter of conservation, fundamental to all the rest. We cannot make men moral or make them well by statute, but we can lend the aid of the community in many powerful ways in

the safeguarding of health and the purification of life; and our moral and physical contagions are interstate. We give and take in these matters throughout the Union.

But of course the more tangible things are our physical resources, their protection and renewal; and these can seldom be effectually accomplished without the co-operation of State with State. We must safe-guard and renew our forests; we must renew our soils and improve our methods of agriculture; we must preserve our great streams—not only preserve them in their undiminished volume in order that they may continue to be the highways of intercourse, but also preserve them from contamination in order that they may be wholesome and serviceable for all uses; and so treat them that they may furnish cheap power to drive our industries; we must guard against exhaustion by selfish private use of our great mineral resources—particularly those which, like coal, furnish the necessities of life to whole communities. We must develop as well as preserve. We must dig canals where they will be serviceable and see to it that they are not monopolized by private interests. In all things we must quicken as well as conserve.

We must equalize, too; I mean that we must seek common means by which to open opportunities of all kinds as freely as possible to the choice of individuals, so that our lives may not be too much tied up in organization, may be as open as possible to honest competition and indivudal initiative. Many of our laws of business need reconsideration from top to bottom. They are made in one economic age and are being used, clumsily enough, in another. Their adaptation may well be a matter of common counsel along with the other matters of general adjustment of which I have spoken.

But the list is not of consequence. No one man, no one conference, can make the programme. I have not spoken of political questions, like the popular selection of United States Senators, or the extension of the powers of the federal government to the taxation of incomes, because these are not matters of necessity, they are matters of expediency. They are not questions raised by the irresistible circumstances of a new age like the economic questions that press upon us. Moreover, I have sought to use every question I have alluded to only as an illustration. It is the

theme that holds my attention and enlists my enthusiasm; the institutional life of the country, the gathering together of the infinitely varied threads of our national experience, the mediation of vital processes, the hope here held out in these quiet conferences that the economic life of the nation may be eased and facilitated, its political life purified and quickened by our counsels and purpose. This has ever been the way in which America has proved her fertility of political capacity. Voluntary conferences of men who have nothing to offer but service and sober counsel have at every stage of our development furnished the subject matter of our reforms. We are doing what each generation of public men before us have done; we are seeking to find out by counsel a way of life.

GOVERNOR WILLSON—Gentlemen of the Conference, the Chair will announce that it has received communications on congestion of population, conservation of resources, equal rights for women and a great many other subjects, and if there is no objection, they will all be referred to the Committee on Procedure without comment and it will report on them.

May I ask if any member of the Conference wishes to discuss the paper of Governor-elect Wilson?

The reception at the mansion begins at 9 o'clock tonight.

GOVERNOR FORT—I want, as Chairman of the Committee in the last Conference on Printing of Proceedings and providing for the expenses, to make a report because our Committee feels that somewhere this report should be where the Governors may know what it cost and how it was paid. I know of no better way than to get in the minutes of this Conference what has been done.

GOVERNOR WILLSON—Governor Fort, of New Jersey, was Chairman of the Committee on expense of reporting and publishing the proceedings of the last Conference and suggests that we wait to put that before us all and put it in the minutes of this meeting. I will ask Governor Fort the cost of the last Conference held at Washington.

GOVERNOR FORT—The statement of the expenses of the Conference of 1910 held at Washington, D. C., January 18-20, 1910, is as follows:

Stenographic report of the Conference and transcribing the minutes,	$264.50
Printing of the 1,000 copies of the report together with some special binding and printing Governors' names thereon,	604.90
Making a total disbursement of	$869.40

The Committee paid all the bills and assessed for our money afterwards. The share of each Governor attending the Conference was $27.98. We have received on account $727.50, including share of each member of the Committee, leaving a balance of $141.90.

This balance will be covered by the proportionate share of the five Governors who were in attendance at the last Conference whose checks have not been received solely because they have not had proper notice. If we may have this report in the minutes of the proceedings, so the Governors may know what was spent and how it was met we will appreciate it. The Committee consisted of Governor Draper, Governor Weeks and myself.

Governor Ansel made a motion that the report of the Committee on Printing of Proceedings of the Second Conference of Governors be made a part of the minutes of this meeting.

GOVERNOR WILLSON—All in favor of that motion say aye? It is adopted by unanimous vote.

GOVERNOR FORT—May I say that on the subject you were discussing relating to the Secretary's salary and other expenses (possibly we had assumed too much), the Committee thought they would make a report upon. We have had so short a time that we have put it over until tomorrow. Governor Hadley has just handed me his check for $127.98. I am not entitled to $100.00 of this. I will turn it over to the Chairman of this meeting to be properly disposed of for the next year.

GOVERNOR WILLSON—The suggestion of Governor Fort is excellent, that their Committee, which has been already acting, will report to us what Committees are necessary, that is business procedure, also suggestions as to budget, Secretary, etc. I shall be glad to hear any other suggestions.

GOVERNOR WEEKS—I am sure it was the intention of the Governors before adjourning this session to place upon the minutes, not only expressions of our heartfelt thanks, but of our pleasure for the truly hospitable welcome and splendid entertainment we have received from the people of Frankfort. We would gladly have remained longer in the Capital City but this is a business conference. On behalf of the Governors, who I am sure would have so voted had time permitted for consultation, I recommend that we spread on our records, not only our good bye, but our best very wishes for the people of Frankfort. These sentiments will be embodied in a resolution that will be formally adopted in Louisville.

GOVERNOR WILLSON—The Conference is now adjourned until tomorrow, Wednesday, November 30th, at the Seelbach Hotel in Louisville.

Second Day.

Governors' Conference convened at the Seelbach Hotel, November 30th, 1910.

The meeting was called to order by Governor Draper, who said:

"Gentlemen, you will please give attention. I am very much obliged to the Governors of the Conference for the distinguished honor they have conferred on me by naming me to preside at this meeting. I thank them sincerely for it.

"A program has been submitted to me by the Committee on Program for this meeting and the first question for consideration is "Conservation from the Standpoint of the State," and we shall have the pleasure of listening to a paper by Gov. Edward L. Norris, of Montana.

THE NORTHWESTERN IDEA OF CONSERVATION

Gov. Edwin L. Norris of Montana.

Those who are acquainted with my personal history will appreciate the fact that there is some degree of satisfaction to me in a meeting of Governors in the State of Kentucky and will also appreciate why a few preliminary remarks, preceding the address, would not seem amiss, from my standpoint at least.

At the very delightful luncheon which has just been served and discussed, Gen. Castleman in speaking to those assembled said: "Governors and Gentlemen." On a former occasion when that expression was used, I heard one Governor say "why the distinction?"

From the standpoint of one who has resided in his boyhood days in Kentucky there is a special pleasure in coming back. All of us have heard and read of how the poets have sung of the beauty, grace and charm of Kentucky women, and those of us who have spent the last thirty-six hours in Kentucky will at once testify that the half has not been told by that poet in his song, however sweetly seductive that song may have been.

We have also heard or at least have read of the superior flavor of the Kentucky whiskey and of the delights that are to be enjoyed by sipping your far-famed juleps. But as a matter of fact, though having spent thirty-six hours in Kentucky an hour ago was the first time we were invited to have one.

We have been here in your midst for thirty-six hours and I have observantly walked the streets of your capital city, and I have been surprised, for no where in that city did I observe the festive feudist engaged in his so-called usual occupation of dropping the other fellow. Nor did I in my nocturnal sojourn observe any night riders making the tobacco grower who won't join the Society look like less than a cent a pound. To all appearances Frankfort was as calm and serene as my peaceful West and all of us have seemed to be just as safe as I would if I be were walking the streets of my western home. Why is all this thus my brother from Kentucky, what has come over the spirit of your dreams? What brand of liquor do you now imbibe that you have grown so different? Is it because the Governors are with you? Is it because you have here assembled the greatest congregation of Chief Executives ever assembled under one tent?

Speaking for us, we will say that these Governors assembled here at least want to see the whole show because we would rather see than be one any time.

But speaking of the subject "the Northwestern Idea of Conservation," a little change from the subject which you announce, because I represent a state that is in the Northwestern group.

Among the questions of public concern the conservation of natural resources is the most far-reaching in importance. No subject has been so much discussed and so little understood. It has become apparent even to the most casual observer that the extensive use and flagrant waste of natural resources cannot much longer continue without entailing serious consequences. The realization of this condition will be beneficial if appropriate action speedily follows.

The public conscience has been awakened and a favorable sentiment has been created. Newspaper and magazine writers and public speakers have performed a valuable service in causing this awakening and creating this sentiment. The practical point or stage for action has now been reached.

Ideas of conservation are as diverse as the number of persons expressing opinions is numerous. All realize that something should be done, while few comprehend how to do it. So far there has been much talk and little action. The subject is too important and far-reaching in effect to permit personal interests to control. There is a right and fair way to accomplish the purpose, and that way should be ascertained and adopted.

The undeveloped resources are largely in the public land States—that is to say, in the West. Very little has been said about conserving resources existing elsewhere. At the Conference held at the White House in May, 1908, the Governors were impressed with the necessity for conservation. Many went home and spread that sentiment among their constituents. The impression there received was that conservation is a State function and that the States should act. Montana did take action and its Legislative Assembly in February of last year passed a law conserving the forests, lands, coal and other minerals under State control. After an operation of nearly two years these laws have been proven wise and efficient. The next Assembly, which will meet in January, will enact such laws relative to forest fires as the experience of the past summer has shown to be advisable, and will also, I believe, make regulations for the appropriation and use of water for power purposes.

Since the first Conference of the Governors a new school of theorists, called "Nationalists," has sprung up which teaches that conservation is a national function and which proclaims that financial benefits shall be national in scope.

In the older States, where resources have been consumed in prodigal use, the views of the nationalists seem to meet with popular approval. In the newer States, where use and waste have not prevailed so extensively, there is a decided conviction that the respective States can and should conserve resources and that an apportionment of financial benefits should be only State-wide in scope. Stated differently, it seems to us in the West that our brethren in the East bear in mind the case of the prodigal son and, having consumed their substance in riotous use, now want a paternal government to make another division and assign to them a part of our patrimony. The "last frontier of the natural-resource prodigal" sees naught of justice in this.

Conservation is a practical problem, the proper solution of which will tax the best thought of the period. The right use and development of resources will not produce any considerable public revenues or a sufficient sum to cause any serious disagreement as to a division of the proceeds. The general public cannot receive direct dividends from this source. Indirect benefits are received from the growth and development of sections however remote, and loss of business is occasioned by stagnation in industrial affairs wherever experienced.

The chief benefits which the East may receive from the development of Western resources will come through commercial channels. The withdrawal of 300,000,000 acres of land from entry and use has been a severe check upon Western development and industrial enterprises in the populous centers have felt the effect. Of the 93,000,000 acres of land in the State of Montana, 42,000,000 acres, or nearly one-half, have been withdrawn from appropriation. A people who can prosper under these conditions deserve some consideration. Let it here be said, in language as emphatic as I can command, that the people of the Northwest enthusiastically favor and strenuously advocate the strictest conservation of all natural resources. We do not differ from the most ardent nationalists in principle but do most radically differ as to methods to be employed.

Two theories have been advanced; one that the general government can best conserve resources, and the other that the States, being more directly interested, concerned and better informed, can and will originate and execute wise policies. The merits of the two theories can be more intelligently considered after a discussion of the various resources in detail.

The chief natural resources in which the West has a special interest are the forests, water and minerals.

FORESTS

Forests serve two very important functions; supplying building material and protecting the watersheds.

The lumber supply must soon be materially curtailed and the price will become unreasonably high unless the forests be protected and reforestation speedily and extensively engaged in.

Growth is nation-wide and especially in the Rocky Mountain sections, and building material will continue to be in large

demand. The wasteful methods of the past have been observed and the necessity for a different system is thoroughly appreciated.

Water for irrigation purposes is necessary in the semi-arid regions in order to secure the highest production. A growth of timber protects the watershed and produces a more even flow in the streams. Forests are, therefore, important factors in the reclamation of land.

The policy of the government in the conservation of forests is not opposed by the consensus of opinion in the West. Those in opposition are so few in number that their efforts will be as futile as their convictions are erroneous. Many of the methods employed in executing this policy are, in our judgment, radically wrong. The holding in forest reserves of lands that are more valuable for agricultural purposes than for the growing of timber is not the most profitable use or wisest economy. Land should be used for the purpose that will cause it to yield its highest productive values. There are in forest reserves millions of acres of land which if cultivated will grow each year agricultural crops of a value equal to forest production on the same lands in a generation, and there are other areas of lesser volume which if used for horticultural purposes will each year produce returns in fruit that will equal the value of the timber grown thereon in a hundred years. The use of such lands for forestry instead of agricultural or horticultural purposes is waste instead of conservation.

The time is rapidly approaching when the demand for bread to feed the ever-increasing multitudes will be no unimportant problem. Forests cannot be used to satisfy hunger, but grain and fruit can be so used. I have heard laments made over the destruction of the splendid forests that once covered the Mississippi valley, but note the fact that the crops now produced in that section each year serve a more valuable purpose than the forests would if now growing there. The same lack of wisdom will be exhibited if the arable lands in the West are used for the growing of timber.

Open the agricultural lands in the reserves to settlement, and cultivation will speedily follow. From time to time forest fires break out and sweep with destructive fury over immense areas. Dead and down timber, and decaying grass, foliage and undergrowth, late in summer make veritable traps that need only the

touch of fire to burst into consuming flame. A neglected camp-fire, a bolt of lightning or other mediums serve as a torch to ignite this tinder house; a heavy wind, and wide destruction follows. For miles there are no breaks and over hills and valleys the fires extend.

Different would it be if the valleys were cleared and settled. The cultivated fields would create breaks and serve as vantage points from which fire fighters could operate. Settlers in the forests would also discover fires in the early stage and would be especially interested in their extinguishment. The settlers also become experienced woodsmen and make the most intelligent and energetic fire fighters. This was conclusively proven during the siege of forest fires the past summer. Permit the homesteader to appropriate the intervening valleys and thereby make breaks in the long stretches of forests. Encourage the settlers to remove the dead and down timber instead of making it more difficult to obtain a stick of dead wood from a national forest than it is to secure the payment of a just claim from a railroad company for damages to a freight shipment.

The grazing of stock in the forest reserves is limited in compliance with the views of some theorist that extensive grazing destroys the range. As a result the grass and other vegetation dries on the ground and communicates fire. Ranges thoroughly grazed during the growing season tend to remove the danger from this source.

There are other objections to the methods of forest administration to which time does not permit a reference. Objections to the methods employed by the government in the sale of timber will be later referred to in another connection.

In fairness to Secretary Wilson it should be stated that he is endeavoring to correct many of the errors referred to. He is being hampered by certain enthusiastic conservationists, some times referred to as faddists, who have created considerable public sentiment to the effect that to clear off the trees preparatory to the cultivation of the soil is a sacrilege, even though that soil would grow fruit trees.

WATER

The importance of water in the reclamation of semi-arid lands has been incidentally alluded to. In my judgment the highest

duty that water can serve aside from domestic consumption, is the irrigation of land, and use for the development of power is secondary. This is an expression of my personal opinion rather than the voicing of a consensus of opinion of the Western people.

The law does not recognize superiority as between appropriators of water so long as a useful purpose is served. A statement of a few general propositions of law will tend to a better understanding. Appropriations of water are either statutory or actual. Statutory appropriations are made by diversion and use. The first in time of appropriation is the first in right of use. The doctrine of riparian rights does not prevail in the irrigated States. Water must be used for a useful and beneficial purpose. The constitutions and laws of the Western States vest the title to unappropriated water in the respective States. The Federal Constitution and Statutes limit the Federal control of water to navigable streams and for purposes of navigation only. There are those who maintain that the Federal government has the title to water flowing over the public domain. This contention does not seem tenable in view of the facts, the law and the Federal decisions.

Previous to the organization of the Union, all unappropriated property inclusive of water was vested in the Crown of England. When the original thirteen States severed their relations with Great Britian the property referred to became vested in the respective thirteen States. These States did not surrender title to water to the government on the organization of the Union, and hence title to waters remained in the States. All new States thereafter created were admitted upon equal basis and full quality with the original States. Therefore, the title to waters is vested in a State on its admission to the Union, and Congress has at no time legislated otherwise. It is confidently asserted that in law the States are vested with the title to the water flowing within their respective boundaries and may make regulations for disposition and use; provided, however, that navigation must not be interfered with.

Aside from the law, the States can best administer and regulate the use of water. The control of water for irrigation purposes is now a State right and that control cannot be vested elsewhere. In fact, it is not proposed that the Federal government shall regu-

late the use of water for irrigation purposes, but shall assume jurisdiction of that used in power development.

In the event that a Federal franchise is granted to dam a stream and this franchise should carry with it the right to the use of the waters flowing at that point, immediately there is initiated a right of Federal origin, adverse to the rights of the irrigators above that point, which are of State origin. Contests would soon arise and relief would be sought by the franchise holder from a bureau chief at Washington, and the irrigators are thus brought into a different forum from that in which they must adjudicate differences as between themselves. There would be a decree of a State Court operating as to certain users and a decision of a Federal bureau or court operating as to other users, and confusion worse confounded would result.

The grant of waters flowing at a given point to develop power would also tend to discourage later appropriations for irrigation purposes above that point for the reason that diversions by irrigators decrease the flow of the stream. The power appropriator having the right to all the flow of the stream at the power site could prevent such diversions above as would decrease that flow.

There are millions of acres of land along the Western streams that will in time be irrigated if appropriators of water for power purposes cannot obtain rights that will discourage reclamation. The irrigation of all lands possible of reclamation means permanent settlement and development and the greatest good to the people of the States and the Nation.

Some of the land along streams is a part of the public domain and power sites thereon belong to the government. The United States owns the power sites and the States own the water. To be of practical value the title to the site and the right to the use of water must unite in one and the same owner. Such co-operation between the Federal government and a State as will give confidence to investors in power plants will be complicated, expensive and unsatisfactory, if not impossible. The national conservationists propose that the government shall assume jurisdiction of waters and lease both water and sites for power development at such price per horse power as may be agreed upon, and that of the revenues thus received one-third shall be paid to the State and

two-thirds conveyed into the general fund of the United States treasury.

It is not believed that under the law as now interpreted by the courts, there will be many extensive investments made in power plants through the medium of the Federal leasing system, for the reason that the investor would be fearful of being required to pay the government compensation for both the site and use of the water, and might later find that the State, as an actual owner of the water, would require additional compensation for its use. The States interested prefer that the government shall convey these power sites on the public domain to the respective States, under such restrictions and safeguards as Congress may deem advisable to make. Such a course has the merits of justice to the States and safety to all concerned.

MINERALS

A leasing of all mineral bearing lands except those valuable for metalliferous ores has been suggested and bills carrying provisions to that effect have been introduced in Congress. The terms of the proposed law relating to coal lands limit the area leased to any person, association or corporation to twenty-five hundred and sixty acres, the duration of the conveyance to thirty years, and fix a maximum yearly ground rental and tonnage royalty. The terms of the proposed leasing system of mineral lands and power sites are not so burdensome as the adoption of the leasing system is objectionable. A sovereign landlord and a citizen tenantry are contrary to the spirit of our institutions.

Ample facilities have ever been given for acquiring the ownership of the soil. Under the regime that has heretofore prevailed our country has developed, prospered and waxed strong. Why now change a custom that time and experience have proven wise and beneficial?

The sale of ripe timber in the forest reserves has not been to the detriment of the large holders of timber lands and manufacturers of lumber, and the leasing of coal lands and power sites will not be to the injury of the special interests which control, in a large measure, production of coal and development of electrical power. The means by which these large industrial enterprises are controlled will not come through the medium of the leasing system but

rather through statutory enactments creating public utilities commissions.

The distance from the place of operation to the forum of authority and the number of hands through whuch any government business must pass make cost of supervision large and delays excessive. This is clearly illustrated in government reclamation of lands, where the cost is larger than when like work is supervised by the State and far greater than when the same kind of work is performed by private enterprises. The cost and inconvenience attendant upon the administration of forests further illustrate the weakness in Federal supervision.

If the leasing system of mineral lands and power sites must be adopted, then let the price that may be charged consumers for service be the determining factor rather than the amount of revenue that is received. If the government proposes to protect consumers from the ravages of monopolists, it would seem that regulations lead all other considerations. This is a feasible idea.

The State of Washington uses its convicts for making grain sacks that are sold direct to the farmers at cost of production. The price of labor is fixed at the cost of maintenance of prisoners engaged in the industry. Washington not only pays for the keeping of her convicts employed in making grain sacks, but has reduced the price that the farmers pay by four cents per sack, or a total of several hundred thousand dollars per year. Here is an example that the Federal government may well heed if a system of leasing its resources is adopted. And after all the benefits of a wisely conducted government are not so much determined by the amount of revenue that is paid into the treasury as by the prosperity and happiness of the largest possible number of its citizens.

The theory of our national government, upon which its constitution was adopted and its laws enacted, has been the reserving of certain fundamental powers and conferring all others upon sovereign States. A trusteeship in resources for the benefit of citizens who will appropriate them according to law and pay therefore a minimum cost, has ever been recognized. Under that theory our country has prospered as has no other. Under that theory the larger part of our vast domain of public lands has passed into the ownership of home builders.

The nationalists now propose to change the system of manage-

ment and embark upon a course that will ultimately lead to the selling of resources to the highest bidder. The proposed change merits most serious consideration and a decision should not be based upon the hysteria of the moment. The Northwest suggests that the title to all natural resources held in Federal ownership be passed to the respective States under such conditions and guarantees as Congress may impose, whenever the States shall have enacted laws satisfactory to the President and Congress providing for the proper administration of such resources. The conditions that Congress may fix will become a covenant between the different States and the Nation as inviolable as the obligation of a contract. There should be no objections made by the older States to this disposition. Each State has received its quota of resources and had the benefits of their development and use.

The newer States ask only the same measure of consideration. It is conscientiously believed that this is only fair and just. Those who have blazed the trails and made the present civilization and development of the West possible believe themselves to be as much interested and fully as capable of protecting their heritage as are the people of other sections to do it for them. This is the sum and substance of the so called rights of the States. In the claiming of this right no ghosts of disloyalty to an indissoluble Union are raised from the graves wherein Southern hopes lie buried.

Patriotism, loyalty, intelligence and industry are exclusive characteristics in no one section of the country. The blood of Eastern sires courses in the veins of Western sons, and the possession of the same high ideals, hopes and aspirations makes the latter as able to grapple with the great problems as are the people of any other section of the Union.

THE CHAIRMAN—Gentlemen, you have heard the very able paper which has been given by Gov. Norris, and it is now in order for a general discussion of this topic.

GOVERNOR SLOAN—Mr. Chairman and Governors: As expressed by Governor Norris, the Northwestern view of conservation does not differ in essentials from the southwestern view of conservation. We, of the West, as a whole, think that conservation up to this point has been a sentiment rather than a policy, a theory rather

than a definite plan of action. We also regard with some alarm the attitude which seems to be taken in the Eastern States with reference to the whole subject of Conservation, especially in the matter of the conservation of the natural resource of the country contained in the public lands yet undisposed of. We feel that the sentiment that the National Government should exploit these resources for the benefit of the National Treasury is unjust to the people of the West. We also have confidence that if this thing be understood, if the Western view could be brought home to the people of the country that this injustice would be observed and that no policy would finally be adopted which would in any way injure the growth and development of the great west.

Personally I believe there is a field for national activities. That field has already been occupied to some extent by the nation through what is known as the Hansborough-Newlands reclamation act. Especially in the Southwest has a good result from this policy of Government been apparent in the last two or three years. Some of these great projects are near completion. Two of them are in my own territory, one of them the largest of the kind in the world, the Roosevelt project as we term it. A dam has now been completed with the storage capacity of 1,400,000,000 feet which is enough water, together with the natural flow of the stream, to supply 300,000 acres of land, and such land as no country can surpass in fertility, sufficient to irrigate that land and cultivate that land for three years without any addition in the way of unusual rainfall. The good of this Hansborough-Newlands act is apparent to anyone who will consider the subject and I think the Government has expended its money derived from the sale of public land wisely in that particular.

I also personally believe and it is the belief of most the people in my section of the country that the forestry bureau is an excellent thing for our section. I personally however believe that there is need for reclamation. Perhaps that is too strong a term. Perhaps I should say there is need for some revision in the business methods adopted in the administration of the forestry bureau. There is unnecessary friction between the forestry service and those people who occupy the forest. Some of them have homesteads there. Others are growers of live stock, sheep or cattle. Up to this point there has not been that close co-ordination be-

tween the local and national authorities that I would like to see, and which I believe will be brought about in the next two or three years when the National Government has had time to thoroughly organize its bureau on business lines.

With reference to what should be done with the mineral lands of the west I think there has not as yet been agreed upon any policy which the people of the West may stand for or advocate. I think we are all pretty much at sea as to how conservation may be carried on with justice to the west.

Now if you lease our coal land upon some basis which would derive some considerable revenue to the National Government, we in the west pay for that. Incidentally I will say that in my Section we pay $9. per ton for coal today. That is almost a prohibitory price. I do not know what we would do if we consumed as much as they do in New England. Now, if you add to that a tax or license, or some change which the government shall make upon the tonnage of coal you see how burdensome that might be upon the people of the West.

The people in the West recognize the fact however that the National Government, as the owner of the public lands has the right of disposition, has a right to sell those lands upon any terms it may see fit. However, there is a point beyond which we do not believe the National Government should go. We do not believe that the jurisdiction of the National Government should be extended to curtail or limit the powers of the State to control those matters so as to guard against extortion or monopoly as the case may be.

Now take the matter of water rights: Governor Norris has well said that the laws of the States of the West, everyone, and I am familiar with all of them, as well as the territories west, are favorably situated with reference to the matter of the right of local control, much more so than exists under the constitution of the United States as a power vested in the Congress of the United States.

As Governor Norris has said, the public water, the water running in the stream, is public property, belongs to the State, and in my territory soon to be a State, no private individual, no corporation has ever owned a drop of water running in those streams and I believe the Constitution will be so framed that no

private person or corporation ever can become the owner of a drop of water running in them. All that an indivudual or corporation can acquire is the usufruct, the right to take from those streams and put to some beneficial use.

The ownership thus being in the state, the right of control naturally rests there and that is the place to which we should go when it comes to the matter of regulation and control of our waterways so as to guard against extortion and monopoly. As I said, the National Government is the owner of these lands and may lease or sell if it pleases. Yet, as the Courts have laid down and as the Supreme Court of the United States has said on several occasions, the Government of the United States is only a proprietor having no different or other rights in that state than a proprietor of property and it is a nice question as to how far the government of the United States can go in this manner of controlling water power. It has been expressed at one of our conferences and I believe it to be true that the states can under the right of eminent domain condemn power sites owned by the government of the United States. I hope that that will never be necessary. I hope never to see the time when there is a conflict between the jurisdiction of the National Government and any State Government with reference to these rights but we believe in the West and I think there are people of the East who will come to out standpoint, that the thing to do is to encourage State regulation where the jurisdiction exists with ample measures to protect the people of the west and of this great nation with regard to the future disposition, use and safeguarding of our natural resources.

GOVERNOR SHAFROTH—I read an article that was promulgated by the Secretary of this Conference with relation to the duties and as to the scope that discussion should take among Governors. And one of the things which he emphasized more particularly, more than anything else was that there should be a tendency on the part of this body, representing the separate states of the union, where they believed an encroachment of the government is being made upon the rights of the states, or any of them, to raise a dissent from whatever the National government might undertake in that line. I believe this conservation matter is drifting us towards the policy which may be expressed, and I think has been expressed, as the New Nationalism and the growth has been made in the

line of conservation disregarding the rights of the states and increasing the powers of the national government. The entire proposition of the withdrawal of the public lands arose by a little amendment to one of the general appropriation bills in Congress. I think it was the Sundry Civil Bill, and it was inserted there that the President could withdraw from public entry such portions of the public domain as he might desire. It was inserted at the request of Western Senators who wanted the lands withdrawn at the headwaters of streams. The purpose and object was so that the shadow of the trees, the withdrawal preventing the cutting of the timber, would prevent the melting of the snows until towards summer and then they would swell the streams at such a period of the year as would be of the most benefit to irrigation and under that policy it was the unanimous opinion of the Western Senators that that should be done by the President. The heads of a few streams were withdrawn from public entry and it was very satisfactory because it is a fact that shade trees retard in the high altitides the melting of snow keeping it for the period of the year when it is needed for crops, and when the melting of it would be of great benefit. It really doubles the quantity of land that can be cultivated.

But there soon came a departure from that policy of withdrawing the land at the headwaters of streams and the policy was extended and vast tracts, covering millions of acres were withdrawn. In my state there has been withdrawn about sixteen million acres of land. That is the quantity of land which is greater than many of the States of the union. The total amount that has been withdrawn from public entry for forestry purposes is 195,000,000 acres of land. The tendency was when those lands were withdrawn for the purpose of irrigation that there should be no persons living on the land withdrawn, and it was on that account that Congress passed an act permitting any person who lived on such land to exchange it for scrip, and with that scrip they might locate on any other public lands of the United States. That became the subject of speculation among land brokers, and land that was contained within forest reserve lying along streams within the watershed was of very little value and being permitted to be exchanged for scrip, with this scrip the owners located on valuable timber lands in other portions of the United

States and that went to such an extent that persons would petition the Secretary of the Interior to declare a forest reserve in which they had private ownership and thereby secure the opportunity of getting some of this scrip. Of course Congress and the Representatives of the West protested against that and soon these reservations were curtailed. Then there followed the making of vast forest reserves, reserves that were not and could not have been although it is claimed they were, for the benefit of growing timber, because you know in the mountains you don't have the best timber in the world. The greater the altitude, the smaller the timber, until you get to the timber line above which nothing grows, and there are contained in this reserve of 195,000,000 acres many million of acres above the timber line. Now, the condition has resulted in the fact that the vast forest reserves were made without proper discrimination. They are made in sections of the country where forestry is not the principal industry, and they are made for the purpose of replanting and keeping the forests intact. When we remember that according to the report made to the Agricultural Department, in my state at an average altitude, 7,500 feet, it takes two hundred years to grow a tree 19.6 inches in diameter, you can see that that is not the place to cultivate timber, when you can go down in the valleys under irrigation and make a growth of one inch a year. So these lands have not been selected with reference to permanent forest reserves, though it is claimed they have been. Then a step followed by which the rights of the States were interfered with. It was said that these vast forest domains were under the exclusive jurisdiction of the United States. It was contended by the states that the state law prevailed over them just as well after they were made reserves as before, and that as a whole state law should prevail, but there have been certain rules and regulations by which the Federal Government has attempted and to some extent has exercised jurisdiction which does not belong to the national government, in my judgment. There is a law in the state of Colorado that cattle can run at large and that any person who owns a farm must fence against cattle or it is not trespass for cattle to go on the farm. That, it seemed to us should be applied by the United States Government as well. Consequently when we find there are rules by the Interior Department which prohibit trespasses upon public lands

and that by reason of cattle getting on public land they could be seized and the owner fined for it, we feel it is an infringement on the right of the states and the state laws should be paramount and therefore the action of the United States Government was simply a usurpation. Then we find the policy was extended. They are now leasing these lands for the purpose of having cattle graze on them and for the purpose of having sheep feed on them. I have always thought and believed that the United States Government never required territory for the purpose of perpetual ownership. The very constructions of the State and National Government prohibits the idea that there should be such a thing as perpetual ownership on the part of the United States Government. And why? Because the enabling acts of the various states under which they were admitted expressly provide that property of the United States shall be exempt from taxation and you can readily see what a hardship that is upon the States if the National Government proposes to hold in perpetuity the land because every twenty-five years the taxes are equivalent to the value of the land and if the United States can hold the land in perpetuity it requires that the State shall pay for that land over and over every twenty-five years. It could not have been the intention of the National Government for an area equal to one-fourth of the entire state to be withdrawn without any revenue being raised from it. You can see the hardship on the state, not so much on my state as on Wyoming. Wyoming is only ten per cent. in private ownership, and that one-tenth must pay the entire taxes to maintain the county and state government. When one-tenth of a state has to pay all the taxes of an entire state it becomes a great hardship upon that one tenth and it is for that reason that we think the National Government never intended to own in perpetuity. We do not find that statement denied but we find continually declarations of the Supreme Court of the United States that sound quite similar to this doctrine, that the government of the United States never acquired territory for the purpose of ownership, but the purpose of extending its jurisdiction over the territory so the country could be developed and so that they could therein raise loyal and valuable citizens to defend the National Government in time of need and for the purpose of imposing taxes upon the individual who might live within that area and this has been the

policy of the Government from the foundation of it until this withdrawal of public lands from the entry arose and it arose in the innocent manner it has been stated to you and was intended only for small withdrawals and intended only to conserve water for irrigation. But now it is extended to a lease system for grazing and the intention has been expressed to the extent of grazing lands upon the plains.

The next assertion that was made which we thought was in derogation of the rights of the state was a declaration that the water power should be controlled by the National Government. Why that should be asserted by the National Government is hard to say but it is openly expressed that revenue should be raised from that source and put into the National Treasury. We do not think that it is fair to the states and it must be remembered that each state is admitted to the Union upon identically the same terms as the original thirteen. If you will notice the enabling act of every state it provides that the State shall be upon an equal footing with the original states in every respect whatsoever. Those last three words seemed to me to clinch the proposition, that the National Government never intended and does not under these declarations intend to assert private ownership in perpetuity and under no circumstances does it indicate that it has jurisdiction upon those lands for purposes other than private ownership. We recognize that the Government has the right of a private owner in those lands and we are perfectly willing that they should have the right of a private owner conditioned in our judgment that it should dispose of those lands, and if the lands are to be held in perpetuity they should pay taxes to the county and State Governments.

So we find the next step taken and asserted in relation to this conservation policy has been that our water power should be the source of revenue to the National Government. And, by the way, these forest lands are leased and the revenue put into the National Treasury and the National Treasury transmits to the school fund of each state, one fourth of that which it collects. I regard all these as nothing but forms of taxes and consequently when you impose taxes upon the Western States which were not imposed upon the original states, you are discriminating and there is not that equality which the Constitution guarantees and for

that reason we think there should be no rental going to the National Government. In fact we think it is an unjust burden on the west, that you are making the West bear a heavier proportion of the burden of the National Government than is imposed upon the other states. Not only that but we find that we of the West have contributed just in the same way as the East for the matter of Government is no particular concern of ours. We help pay for your battleships and your fortification, when no army of any nation on earth can ever get to us. We help bear those burdens because we think they are national in their scope and that we should help bear them and we pay the internal revenue and import duties as cheerfully as any other portion of the United States. When you attempt to raise a revenue out of that which is within the boundaries of our state and which no other State has ever had imposed on it, we say it is unfair and unjust. The idea is that the west would permit these water powers to get into the hands of monopolies if the National Government did not curb and control. I recognize that many in this audience have been members of the National Legislative body and they know that the National Legislature is as much trustridden as any state Legislature. I believe it is easier to get legislation curbing trusts through the Legislatures of our western States than to get it from the National Government or the National Congress.

Now that policy of making revenue from the water power of our state is of enormous importance to us because these water powers are of such value and can produce such cheap power that it will revolutionize these western states and make them great manufacturing states. I know that one plant in my state has sold its entire output of power at a price of one-half cent a Kw. Hour. You can see from that that it is one tenth or one-twentieth of what you are charging. From those mountain streams the descent is so great that water can be harnessed in a short distance and made to produce enormous power and that is reflected in the price. And the theory that is advanced that there is danger of monopoly is almost absurd to us in view of the enormous amount of water power that exists there. A mountain stream is harnessed and the water is conducted along its side five or six miles and then, by a steep descent, the water is made to perform the function of producing electric power. Now when that occurs there is no rea-

son why you can not go five miles below or five miles above and have any number of electric plants along that mountain stream. Of course the most favorable sites would be taken first but there is not such vast difference in the sites and it seems from the enormous amount of power there that monopoly could not exist. It is estimated that there are from one million to two million horse power in our State capable of being produced and when we realize that we have had a process of building these plants in our state for five or six years and have only about 60,000 H. P., you will see the danger of monopoly is not very great. But there is another reason why we can not have monopoly. It is impossible to have monopoly because the courts have held repeatedly ever since the formation of the constitution of our state that these various water power users are nothing but common carriers and subject to regulation and control in the same manner as railroads, and consequently monopoly can not exist.

Then again we have, in a great many of the western states the power of taking away certain matters from the legislature under the referendum. So again monopoly can not exist.

Then there was another development of that theory that started from the insertion in the General Appropriation Bill of Congress by which the reserve was made.

Now it is proposed to have a leasing system of the coal lands. We protest against that. We say a system of leasing means perpetual ownership and perpetual ownership which exempts the land from taxation, means that the National Government will pay no taxes which will throw an undue burden on those of our citizens who do pay taxes. So we say the leasing system is something beyond the intent of the framers of the Constituion and that it was never intended that any land should be held in perpetuity but that it should always be open for settlement. That was the rule for years and years and the last enunciation for the New Nationalism has been that the mineral lands of the United States in the public domain should also be leased and the amount turned into the treasury of the United States. We most vigorously protest against that. We think that is usurpation of power and a departure from the policy of the government from the foundation thereof until the present time because they have not attempted yet to exercise that power and we think that is a violation of the

rights as between the State and National Government. We know and every one knows that under this policy, that the United States pursued year after year, this country has developed, and particularly the west, as no other country in the world has ever developed We realize that from the discovery of gold in California there has been turned into commerce more than three billion of gold and silver and the beneficial effect it has had in the downward trend of prices has been such as to produce eras of prosperity in this country that were marked and it can not be denied that good effect has been produced on the entire world from the discovery of gold in California. The system the government followed of permitting to locate on the government domain, permitting a man to pay $5.50 per acre for the land, permitting him to extract from the land all in it, might in some instances be regarded as a great gift from the National Government. But, it must be remembered that from that six million it costs three million to extract it. Not but what some mines have paid enormously but that is the average cost and you must take the average of the mines that turn out to be worth nothing and those that were valuable. Under that policy the National Government and the particular localities in the West have prospered to an enormous degree and we look upon any departure from that policy as a serious danger to our well being and also to the well being of the National Government. We feel that the National Government has duties to perform of a national character. Its principal object when it acquires territory is for political purposes and not for jurisdiction or sovereignty. In other words they are not supposed to exercise any powers of sovereignty in the State, none whatever. And when you attempt to do that by attempting to withdraw large areas of land, and right now there has been withdrawn in my state 82,000 acres of coal land. Why the statement is made that in fifty years coal will be exhausted and about the time that statement was made the geological report came out which said there were three hundred and seventy-one billion tons of coal in the State of Colorado, and as the world's consumption is one billion per annum you can see that Colorado has coal sufficient to supply the world at the present rate of consumption for three hundred and seventy-one years. Wyoming has enough to supply it for four hundred and forty years and all portions of our section of territory have an enormous sup-

ply. Coal is not within hundreds of years of being exhausted. It seems to me we should not grow hysterical over these things and ought not to attempt to give power to the National Government which does not and should not prevail.

It is true that under the general welfare clause they might take some jurisdiction that would make a conflict and inasmuch as people are moved in different periods by the necessity of their conditions it might be that judicial decisions would be produced but it seems to me that this doctrine that has arisen, attempting to make out of the public domain of the country revenue for the National Government, is something that will be a detriment to us and we think this is the proper body to express themselves if we are going to adopt resolutions and that we ought to insist that those rights belong to the States, that the National Government has control of the national affairs, but the State Goverment has control of State affairs.

GOVERNOR NOEL—Without regarding this as a sectional or political question it is a question that will deeply effect the future of this country. It is not the policy or desire of any part of this country to be unjust or to be in favor of any discrimination against any other section of the country. But in the beginning when the Federal Government gave to the citizens of the states lands, it was given with the timber and gold and iron and whatever was in it. But at that time timber wasn't considered as worth anything. The timber was regarded as an obstruction to be removed and when it was cut down a great deal of it was simply left on the ground. It is different now. The Government was dealing with the condition then when timber was worthless, when the power of the country was generated not by steam or electricity but by the water of the river that flowed in the borders of the state or by the hand of man or an animal. Now, a totally different condition confronts us or confronts the world. This is an age of production through machinery. Machinery is worthless without power. Power can be generated by fuel, by steam or by water. That is all. Now the resources of fuel from wood is limited. Our consumption exceeds three and a half times the growth of the timber in this country. And the end is near at hand. The next proposition is coal. What shall we do with that. Coal to exist its power must be available and the available coal supply can be computed in a

short period of years. But for this generally accepted fact there would be no controversy about water power. But water power lies beyond the coal and beyond the fuel. It is an agency by which the production of this country in every form of great enterprises is to be controlled, to be encouraged or monopolized or destroyed. So that the Government is dealing with an absolutely different condition of things from what any man dreamed of when our constitution was originally framed. When our Constitution gave to the National Government the power to build, through tariff legislation, a wall around us by which we would be cut off, whenever Congress chose, from the markets of the outside world—because the power to tax is the power to destroy, we were left this country alone. The Government could limit the use of anything and they could and did through the tariff limit us. Then every part of this country is necessarily interested because State lines are no barriers to commerce, but should be given free access to the coal, water and fuel which remain now in Government ownership. All of this possessed no worth then but it is priceless now and when we come to speak of it now, we speak not for ourselves alone but for generations yet to come.

The government is an agency. That is all. It is for the promotion and welfare of those living now and for the protection and welfare of those who shall come after us. Sometime since, I went to see the largest mill in the world. I found two hundred and eighty acres in the Mesaba range, which the Government had sold for $4.80 an acre. It was from fifty to one hundred feet deep and was just under the surface of the ground. Strip the earth away and it was loaded on cars by machinery. It is only a question of minutes to load a car. Trains are carrying it down, forty two trains a day and sixty cars to a train to Duluth. A ten thousand ton steamer is loaded in an hour and a half. I was told that three quarters of the iron in our country was shipped from Duluth. There were two hundred and eighty acres at $4.80 or $4.20 an acre which is now capitalized at $40,000,000. Who pays on that $40,000,000? The railroads and everybody that uses iron and steel. Was it right of the government to part for $4.20? It was an outrage that should not have been done. There is where the trouble comes We should not be denied in any part of this country of ours such opportunity. We should not be denied ac-

cess to the resources of other countries and put into a position where the resources of this country will be monopolized.

I come from a state that borders on the Gulf. One mile in every five you can bore down and find some scale and some remnants of trees but there is no water that flows over it now although it was originally under the Gulf. The fall is so slight that we have no water power, no coal, no iron, yet we are a state that needs it now and will need it for all time to come. And under these conditions, do the people of the west presume to say that we shall be denied the right that we own and which every citizen of the ninety million of this country own, that we shall be denied the right of access to it? They can have the immediate benefit of the labor that will develope the iron, coal and water, but shall we be denied access by its being put in the way that it may be a monopoly? Now when you come to a monopoly in the Government, the Government is simply the agent of the people, whether that Government is a city, a county, a state or a federal government. It is a government and it is our government. It is all our government divided into different departments solely for our convenience. That is all. We are one country, one people with one welfare, what benefits the one benefits the other. Our future is interlocked and interlaced in every way. Now, when we come to deal with it, shall Mississippi be denied the right to be consulted in the disposition of what we now as citizens of the United States own. We never owned coal. We never owned iron. We never owned water power but we need it and as the years pass by we will need it more snd more and if we have no interest in what the Government owns in the West, we will have no voice in its disposition. Now you can say that the nation as a whole is liable to be controlled by Trusts as much so as a county, or city or state. We don't believe it. We don't believe trusts can elect a president; but if it is a fact, it is ourselves who are responsible. We can not be suffering except for our own sins and for the shortcomings of our representatives. That is where we stand and we say therefore that we are in this country, we are bound up in its destiny. We are circumscribed in our activity over the boundaries fixed by the Federal Government and in those boundaries Commerce knows no state or county lines. We can be denied outside privileges but don't deny them inside the Government. When we come to the ques-

tion of the cost, it is said that it will be more by the Federal than by the State or County. We don't think so. Are local communities now more wisely controlled than the Government is? We know it is not true as to our people and our people are the same as the rest of the country. The Government looked after the education of the people. They gave the State of Mississippi one section in every sixteen for the common school education for the children in that section. They gave that section to Mississippi in trust and Mississippi gave it to the people of the township in trust. How will you deal with that? They passed a law in Mississippi years ago that they can lease that land from one year to ninety-nine years. They can lease it for one year or for a term of years payable in one, two, or three installments for the whole ninety-nine years. Those leases were subject to local ratification and control, but what became of them. Was the land preserved? It was lost absolutely. A majority of those townships haven't a single section of lands and the lands leased for the entire ninety-nine years and the timber on it has been destroyed. You say the voters did it but it was all through chicanery. In that state in ten days they obtained six hundred and forty 99 year leases with the right to remove timber and the timber was worth $40.00 an acre. The annual income was to be for the children, but the property itself was to remain in the Federal Government. So when we got the property we did not wisely handle it. That is a matter on which we had practical experience, and we don't think the western states are wiser than we are. They seem to have more faith in the states than in the Federal Government, but by our experience in the past it don't seem that the states can handle it. So when it comes to this matter of the coal lands and the water power, etc., that are owned by the Federal Government, we want to see how it will be handled, we want to see that it won't be monopolized. We want to see our rights protected, that the experience of the future will not be the experience of the past.

Now we believe that the perpetuity of our government in the exercise of its power and control of our commerce with foreign nations and by the tariff in a measure excluding foreign products—that the absolute and correct control of the government in all of its powers, depends on the wise exercise of its powers as to the resources that remain with it and we do say that the states, when

it comes to coal—that the states that have no coal shall not be deprived altogether or put at the mercy of the states in which iron and coal or the forests now remain. We believe that the water power can be used over and over again many times; that it can turn one wheel here and can go on down the stream a little further and turn another wheel and another. We do believe that the Federal Government should stand by the state as a neighbor. We believe that the neighbor below is interested in the quantity and quality that comes from above. We cannot protect ourselves as to the quality and quantity of water or the regularity of its flow. That is in a measure regulated by the forests, by the natural and artificial conditions above us, but when the seasons of growth and water come we suffer. Now we are unable to protect ourselves from above, but the Federal government is able and the Federal Government can in a measure, through preserving the forest lands suitable for forestry, properly control the water power.

You say, what has the government to do with anything but navigable streams. The principle carries with it all of the incidents. That is the constitutional construction that has been adopted from the John Marshall period and when the government begins to control the waterpower, that is, of navigable streams, then what is the use if the water is cut off, if the water can be destroyed for use? Why, of course the control of the stream means the control of the agencies which make the stream useful.

We are all members of one family subdivided into families of states, families of counties, of townships and of sections. We all have common intersets and a common destiny. And do know now what we did not know when we started, that the prosperity of the future, the happiness and the welfare of the many to come is to be protected only by the keenest and wisest exercise of the powers of the country and that the power for the long future is what is to be generated by our natural resources, our coal and our water. They say that is the initiative and referendum and what has that to do with the Dartmouth decision. We have put there that power once given under certain conditions remains. So I say we should handle things and so circumscribe matters that when power goes to a state it cannot be contracted away. It cannot be taken from the people of the Federal Government forever. I am speaking for states that have no coal or iron and really have only

one political party, and that is not the new nationalism, new Nationalism does not effect us in the slightest. But when we come to look at the reality, to look at the future, which extends through indefinite time, we say forever and ever, there are boundaries that hold us in the United States and we are interested in the resources of the United States and we do not want them ever placed beyond the grasp of the people of the United States and we want them to be in the control of the United States. The Federal Government is interested in all parts of the country. The state is interested only in itself. We are vitally concerned in the future that the people should be protected by the Federal power whose influence and whose interest extends as far as its jurisdiction goes, and when it comes to coal and iron and waterpower, we want it to remain for the whole country. We know there is no political alignment or sectional alignment on this subject except that the states of the west aim to reach out for the immediate benefit but we do not want to put these things where we shall have none of them. Whenever that was done formerly they were lost and destroyed. Put it where we can forever be protected. Let it remain in the jurisdiction of the Federal Government. If the Federal Government has no control of the waterpower, what are we talking about? If the states have the right to that the courts will decide it. There is no trouble when it comes to a question of rights between the states and the Federal Government. That can be settled by the courts and we should leave it to the Courts. But whatever power justly remains in the Federal government and whatever power the courts accord to it, we say that it is vital that that power shall remain in the Federal Government and it should be so placed that it can never be taken from the people. We do not want to burden the people of Arizona or Montana or Colorado. If they have factories, electricity will be generated and carried to their factories first. If they have mines, they will be the first beneficiaries but we want the excess. They can have the first benefits but we want some of those that come after and which will surely come from the wise and economical handling, now and for all time to come, of those natural advantages which are now possessed by the Federal Government.

Gov. NORRIS—I shall ask the indulgence of the Governors for just a moment. In view of the fact that I opened the discussion,

there is one point to which I wish to call the attention of the Governors after the speech of the distinguished Governor of Mississippi. The Governor of Mississippi and the Western Governors are attempting to arrive at the same point, but we are looking at the matter from different standpoints and we are traveling different routes. I would not have believed and I can scarcely comprehend, that any people are so incompetent to administer their own affairs as the distinguished Governor of Mississippi has shown his people to have been. The fact is, we are creatures of environment. We believe that which we see. Now, not having been among such people and not having dealt with such people, I can scarcely comprehend that there are such people and I would not have believed except coming from such a distinguished authority as the Governor of Mississippi. The fact that any people should fritter away their school lands, as the people of Mississippi have frittered away theirs, seems strange in view of the fact that the people of Montana have regarded that trust as sacred and have administered their school lands with all of the precautions that Russell Sage took in his days on earth in the administration of his financial affairs. The very best judgement is brought to bear in the handling of the school lands and the school funds. Therefore, I have considerable confidence in the ability of the people of Montana and the West to administer their resources especially in view of the fact that only a few days ago this great paternal government of ours, which can so safely administer our affairs and does so safely administer them, put up one million and five hundred thousand acres of splendid agricultural land at two dollars an acre. I cannot have so much confidence in the ability of Congress to protect the government resources and the government waterpower, when last year when we were engaged in the state of Montana in fighting off one of the trusts on the Columbia River for Section thirty-six of our school land when the state board was contesting their right to steal that from the state of Montana. I know that those men went down to Congress and during the closing days of the session had a bill passed through the lower house absolutely giving that right away without conditions or compensation, and while the state of Montana was trying to protect school section thirty-six, the Lower House of Congress gave it away.

I have seen Congress do some curious things. Look at the last session and you will see that a bill was passed by the Lower House conveying the right to certain people to build a dam across Sanders Fork. And look at the decision of the Montana court in September last and you will there find the Supreme Court held that it could not be taken by those parties because it was a public school section and must be sold. In view of all of these things, I don't have so much faith in the Federal Government. You let the matter be regulated by the states and every move is right under the eyes of the people of the state. Congress sits at Washington and what can we know about what is going on there? You let something be proposed in Montana that is wrong and from fifty to one hundred newspapers will take a crack at it, but if Congress makes a mistake it is passed in silence. The truth is we want to conserve our resources and I believe the state can better do it than the Federal Government. Take most of the resources that have been frittered away and it is the Federal government that has done it. The great power plants in the west now said to be controlled by the General Electric Company were conveyed away by Acts of Congress, which I think only meant to license.

So far as water is concerned, we believe the law is settled, and here is a point where you will need Federal action. The Government does not own available sites. You may own the water and I may own the site, but the third party won't put up the money until the title is a unit. Therefore, the Government must part with their site to someone and the state to someone and hence it means cooperation or that development will never follow.

Now, I am looking to the same end and to the same result that the Governor of Mississippi is, but I believe that the state can better reach that end than the Federal Government, because it has more interest. Why? Because it means the body of the people. Those people must rise or fall by virtue of the right use of those resources and by what system of calculation do we arrive at the fact that the whole is greater than the sum total of parts. Now if those different states are so incompetent, how collectively can they become so competent?

GOV. NOEL—I spoke of a price of $10. for 640 acres when the timber was worth $40 an acre, but the timber at that time was not regarded as of any value That land was only useful for grazing

purposes. I say the land was leased for 99 years for $10 where the timber alone would now be worth $40 an acre, and it was put up and sold at public auction. Now, the same experience you have in one state we will have in another, if these coal and water and mineral rights are put up.

State lands and county lands are not taxed. To produce taxes it must be owned by someone somewhere and the Federal Government proposes to select and arrange for that ownership.

THE CHAIRMAN—Unless there is some further discussion, I shall now call on Gov. Hadley to speak about "Employers Liability Laws and Workmens Compensation Acts."

EMPLOYERS LIABILITY AND WORKMEN'S COMPENSATION

GOV. HERBERT S. HADLEY OF MISSOURI

Mr. Chairman, Fellow Executives, Ladies and Gentlemen: I have been somewhat at a loss to know when I was expected to offer anything for the consideration of the executives gathered here at this conference and upon what subject I was expected to speak. I was originally assigned to speak upon the subject of "The Executive, His Powers, Duties and Responsibilities," which reminds me very much of the young man who took for his subject: "The Universe, Its Past, Present and Future." But it is sometimes advisable that we should adopt a system of concrete application to general subjects instead of dealing with academic or abstract problems.

We have listened this afternoon to an interesting discussion of the question of our national resources and that is a subject apparently as prolific of discussion as it is difficult of definition or analysis. It seems as if we are all anxiously striving for the same end, but are unable to agree on the method by which we are to secure it.

A discussion as to the relative efficiency of the different departments of Government, State and national, would require a consideration of individual instances which might be embarassing and also

offensive to the representatives of some of the States and perhaps also to the National Government.

But the question of the conservation of human life, limb and safety is a question that effects all states and in which the interests of the people of one state are the same as the interests of the people of any other State. It is also a question in the final analysis of whether the people of the States in their capacity of dealing with the questions of local Government should adopt laws that would be effective rather than the people acting in the capacity of a nation. We have advanced very much in this country in our ideas of Government, as we have advanced in all departments of activity and thought. In the lifetime of many of those now here, we have advanced from the idea that the government is best which governs least, to the idea that that Government is best that does most to promote the happiness and welfare of its people, and from the idea that all good Government exists with the consent of the governed, to the idea that Governments exist to promote the welfare of the governed. Consequently we do not hold longer to the old theories and axioms, but we adopt the course to bring about the best results.

The question of the conservation of the human life and limb must deal with the concrete questions that bring about the safety of the people and the promotion of their health and the prolonging of their lives. That question deals primarily with those who are part of our industrial system. So it has been the effort of the national Government and for the State Governments to enact laws to protect those, who by reason of their necessities are poorly able to take care of themselves.

I suppose every State here represented, as well as every State in the Union, has enacted laws know as factory inspection laws, has enacted laws as to inspecting underground mines, has enacted laws for those who operate railroads, and I think it will be the testimony of every Governor present, and every one present familiar with the history of this legislation, that the constitutionality of those laws has been subjected to the active opposition of the interests affected, and I think it will probably be the testimony of every executive present, that these laws have in the first instance in many cases been held to be unconstitutional. I think it is unfortunate that the impression exists, as the result of decis-

ions of our courts, that they are more concerned in the protection of the rights of property than they are in the rights of persons. But with the changing thought of the people, has come a changing of the attitudes of the courts, because after all, the courts simply express the moral judgments of the average people. Consequently, we find in one period a law regulating human relations, devised for the protection of a certain class of people, is declared unconstitutional because it is regarded as an interference with the right of contract and unnecessary under the exercise of the police powers of the States; in another decade the same law is upheld as constitutional because it is then regarded as so necessary for the promotion of the public welfare, that it is to be regarded as an exception to the right of contract and of individual action which belongs to all citizens under the State and Federal Constitutions. And so it is, that to-day, no longer is the constitutionality of laws providing for improved conditions of factories, for the inspection of underground mines and for decreasing the dangers and hazards of employments questioned. We accept them as not only proper, but as necessary.

But we are brought face to face, by reason of existing conditions, with the necessity of bringing about further changes, as State Governments, in the law of liability by which one injured in industrial operations, is able to obtain compensation where he is now unable to obtain it in the courts. This is receiving attention in a number of States and is a question which is much more effectively handled in foreign countries than in ours. We still retain in this country, in most of the States, the idea that one to secure damages must show that the injury was due to the negligence of his employer, that the employe has not contributed to the injury by his own negligence, that the injury was not one incidental to the risks of the employment, and that it was not contributed to by the negligence of a fellow-servant.

Statistics which tell the results of litigation in cases of this kind show that only in 15 per cent, of those cases where people are injured in modern industrialism, does a right to recovery exist. In all other cases the injury is either a risk of the employment, is due to the negligence of the injured party or to the negligence of a fellow servant, and consequently we find that modern industrial-

ism bears most heavily on those who are the least able to bear it, and is not distributed over the entire body politic.

We have recognized that a man who is engaged in the business of selling to the entire public can very properly charge the wear and tear of the machinery used in the production of the article sold, but we have not recognized the necessity of charging for the wear and tear upon the human machinery used in the production of the article sold.

This is a question that I think demands the consideration of the executives of the several States. Our efficiency and the efficiency of our State Government must be determined by the benefit that comes to the people of the several States from that Government. It is useless to discuss the relations of the departments of the State Government with the national Government unless we can demonstrate the value and the efficiency of the several State Governments and the value and the efficiency of the Governments of the several States must depend upon the initiative and intelligence with which the duties of the Chief Executives are performed, and that efficiency must be determined not so much by the performance of the prescribed duties placed on the Chief Executive, but by the manner in which the wise public conscience and intelligence direct it along healthy and useful lines. And so, in avoiding the general discussion of the corelated powers of Chief Executives, I have preferred to talk about this one question upon which I feel that the Chief Executives of the several States can render a valuable service to the people of their several States.

Now, in considering the economic laws incident to our several systems, statistics tell us the expense for the maintenance of the courts for the settlement of personal injury damage suits far exceeds the amount of compensation that is secured by the plaintiffs in that class of cases. That is, the people as a whole could do away with so much of the courts, as is necessary for the trial of these cases and pay out of the public funds the compensation that, according to past experiences, has been secured by injured persons and still have a margin on the right side of the ledger.

Looking at it from the standpoint of the employers, we find from the reports that during five years the employers have paid to liability insurance companies $95,000,000 for protection thereby secured, to have these companies assume the liability of the em-

ployer in the conduct of modern commercialism. Of this $95,000,000 the companies have kept $55,000,000 and paid out only $40,000,000 to the persons actually injured. Now, exactly what amount of that $40,000,000 actually gets to the person injured we cannot tell, but we all know that a very considerable part of it does not reach him. This reminds me of the story of the Irishman who had a damage suit for personal injuries. After a long and tedious litigation, damages were secured and he and the lawyer got together to make the division. And when the Irishman saw the small portion that he got, he turned to the lawyer and said: "Was it you or me that got hit by that brick?"

Gov. NORRIS—Have you ever figured out how much of that $40,000,000 the injured party actually gets?

Gov. HADLEY—I have been on both sides of the proposition, I have been a corporation lawyer and I have also been on the other side and I should say that the average amount retained by the lawyer is 30 per cent. Some lawyers would take more, but I should say that is the average.

Statistics tells us that in the operation of railroads 4,000 lives are sacrificed yearly and from 50,000 to 60,000 persons are injured. In coal mines 10,000 lives are sacrificed every year in the conduct of underground mines. That this awful loss of human life and these fearful injuries testify to the inefficiency of the men who conduct our commerce is demonstrated by the experience of other countries where wiser laws and better inspection have resulted in a much less death rate.

While I recognize the vast importance of many problems connected with the commerce of the country, I undertake to say that this problem of the correction of the conditions that result in this awful tale of death and destruction presents a problem second in importance to none that confronts the people of this country today.

Now, in the consideration of this we must recognize this fact, that laws should be enacted not so much for the purpose of getting a just system of damages, but for the accomplishment of proper protection of life and limb and health. What the laboring classes of this country want is not so much compensation for injuries as to have the assurance that they will be secure in their lives and in their strength and in their efficiency. The two propositions, how-

ever, are necessarily related, the one to the other; because if you have a certain system of compensation the natural result will be a decrease in the dangers which result in those injuries.

It was a Federal Judge in my own circuit who, speaking from the bench, said: "When the railroads of this country are taught that it is cheaper to buy good machinery and safe machinery and apply proper safety appliances, than to have damage suits, they will make much more provision.

However that may be, it is not intentional neglect on the part of our people who conduct large commercial enterprises. They are indifferent unless its value from a money standpoint is forcibly presented to them.

Various foreign countries have adopted various systems, but in no civilized country on the globe does any system approaching ours exist. England has her employers' liability and workmen's insurance laws. Germany has a system of compulsory insurance, under which 90 per cent. of what is paid by the employer goes to the employe injured and only 10 per cent. to administration. France has long since abolished the system based on negligence. We alone of all the great nations of the earth adhere to the archaic and almost barbaric system of telling the men who conduct our modern industries that they must establish negligence before they can be compensated for injury which is the wear and tear of the people, not the machinery.

Now, what system we can adopt must be determined by constitutional limitations. I take it there will be some difficulty under constitutional limitations in applying a system of compulsory insurance in the various States. That would probably be held to violate the Fourteenth Amendment, but we can go to the extent of abolishing the assumed risk, and we can abolish the defense of fellow-servant, and we can abolish the defense of contributory negligence.

The doctrine of comparative negligence obtains now in quite a number of the States and we can do much towards making more certain actions for negligence for injuries in modern industry, and I think we can safely provide for an optional system of insurance by which a fund should be created which should be jointly contributed to by employer and employe. And that we should do something along this line must be apparent to any right-thinking

man who investigates the matter and sees the unjustifiable suffering which results from our present inadequate system.

The National Government, of whose progressiveness some of us seem to have doubt, has advanced somewhat more in the solution of this question than have the States. Yet, I do not think this line of activity belongs to the National Government. The establishment of a rule of liability for one living in the State, working in the State, in the conduct of business that so far as he and his employer are concerned is local to himself and the employer, must necessarily be a matter local to the State and not interstate in its character, or when it is interstate in its character, it must be certainly an exceptional case.

While no criticism can be directed against the National Government for its efforts to mitigate the harshness and inadequacy of our present system, I am satisfied the discriminating technical minds of our Federal Judges will very seriously impair the effectiveness of our employers' liability laws enacted by Congress. At all events that has been the experience up to the present time, so that the lines of activity must belong to the States and should properly belong there because it is important to remember that in the conservation of our national resources we must never get away from the proposition that the police powers of the States providing for the health and safety of the people must be exercised by the State and must be exercised by the States with due regard to the duties they owe the people.

In a number of States, in Illinois, New Jersey, Wisconsin, they have appointed commissions to investigate this question. In my own State there is a committee investigating now, a voluntary commission of public-spirited citizens, for the purpose of framing a bill which will be submitted to the Legislature for consideration of changes in the present law of liability, and I know of no subject which more deserves the consideration of the Executives, no subject that could be more beneficially dealt with by a committee of this conference, then the preparation of a bill applicable in a general way to the several States by which we might bring about a decrease in the sacrifice of life and limb incident to modern industry and the establishment of a more just and more effective system of compensation, either as a result of litigation or arbitration between employer and employee.

GOVERNOR NORRIS—I would like to inquire: From your investigation of employers' liability and workers' compensation acts, do you think it advisable to recommend to the state legislature that exclusive remedy or only as a cumulative remedy?

GOVERNOR HADLEY—My judgment is that the changes I mentioned in the present law of liability together with the optional insurance feature presents the most feasible line under the limitations of our State and Federal Constitutions.

The object to be secured should be prompt and certain and definite compensation. That can not be done absolutely under any system of law. It certainly cannot be done under our constitutional limitations to the extent that it has been done in foreign countries. But my investigations have led me to the conclusion that optional insurance together with the change in the present law of liability is the best that we can do.

GOVERNOR NORRIS—If the Constitutional objection could be removed do you believe the foreign policy would be the best or would you allow our constitutional provisions to remain as at present and only adopt the cumulative system?

GOVERNOR HADLEY—Do you mean the optional system?

GOVERNOR NORRIS—Yes.

GOVERNOR HADLEY—I think they should have the choice.

GOVERNOR FORT—This is a very big question and I understand there are several here who might like to say something on it and I think this discussion should be carried over until tomorrow morning.

This was agreed to.

Third Day

LOUISVILLE, KY., DEC. 1ST. 1910.

Conference met pursuant to adjournment and was called to order by Governor Marshall of Indiana.

THE CHAIRMAN—The program of the morning, as reported by the Committee, calls first for a further discussion on the question of the Employers' Liability and Workmen's Compensation Act which was deferred until this morning. I shall be glad to recognize anyone who has either knowledge or theory on the subject.

GOVERNOR WEEKS—We have had a great deal on this subject in our State. In fact both the Democratic and Republican platforms had a great deal to say about it and there are those in the state today who say that the election turned on that plank in the platform.

Now there are one or two questions I would like to ask. I wanted to know of Governor Hadley the limit for death. He said $10,000. In Connecticut the maximum is $5,000, and that has been agitating the laboring people for the past four or five years. At our session two years ago that question was agitated. The lobby was filled for weeks by men who are interested and it was so evenly divided that it was defeated by the vote of the Lieutenant Governor and there is no doubt in my mind that a large number of would-be Senators were defeated just on the way they cast their votes on the Employers' Liability Bills. To show you the interest in our state over this matter, the day before I left home, one of the leaders of the workingmen came to my office and said, "Governor, I wish that question might be taken up. It is one of the great questions confronting us common people today. It affects us more than anything else that you will talk about." Now I had no advanced ideas on it and can not speak at length on it and do not care to, but I would like to bring out from the Governors present the maximum amount of the death compensation. I think in the last few years there has been a tendency to have no limit.

GOVERNOR NORRIS—Did your proposed act limit the amount to be recovered in the case of death?

GOVERNOR WEEKS—No, sir; it was unlimited in both the platforms.

GOVERNOR NORRIS—Would it be possible to make an Employers' Liability Act operative unless there was some limit placed on the amount to be recovered.

GOVERNOR HADLEY—A manufacturer's and working man's compensation law should have an allowance based upon the loss of time and the character of injury such as the accident insurance companies have. An Employer's liability law may or may not include a limit for the amount which can be recovered in case of death. $5,000 is the general amount that has obtained up until the last five or six years. It became so, it was often cheaper for a corporation to kill a man than to hurt him and public sentiment has brought the change about to $10,000. But the question of amount is perhaps of no greater importance than the question of the survival of an action. This might seem rather technical to a non-lawyer but in many states the right of survival only falls to certain designated persons while those dependent on the deceased for support have no right of recovery. We have brought about a correction by making it that those who are dependent upon the deceased for support have a right to recovery, even though they do not stand in the relation which had previously been made the basis of the right of recovery.

I think there is another point I did not mention that I think we should as Chief Executives consider in changing the law, and that is, that our present rule of liability is one of those inheritances from our English ancestors, that has come down from the days of simple industries when relation of employer and employee was largely personal, where it did not extend usually beyond the employee. Now it is quite plain that when the reasons for the rule cease to exist, the rule should cease to exist. This archaic doctrine of the assumption of risk and contributory negligence and negligence of the fellow servant are rules established upon cases of human experience that not only do not exist today but cannot exist today and consequently we are applying arbitrary unjust rules when we retain those rules of liability.

GOVERNOR NORRIS—Have any of the Governors followed the proceedings of the Conference as to Employers' liability and workmen's compensation recently convened in Chicago?

GOVERNOR FORT—I have the report from the Commission in my state. The Chairman is William B. Dixon, I think a Vice-President of the Steel Trust. Mr. Snowden who was a specialist on this subject and who was Secretary of the last Commission and is the Secretary of the present Commission, sent me a report last Friday and I thought I had it here but I have looked among my papers and I can't find it. It is gone. I can not remember and don't propose to recite what they did. You will all probably get the proceedings.

While I am on my feet, let me say that in New Jersey this question is a live one. We have had it up at every session of the Legislature since I have been Governor. We have passed but one act which modified our rule as to the fellow servant doctrine to the extent of taking the Superintendent out of the list of fellow servant. That was practically nothing. He never should have been held to be a fellow servant. But our courts held that he was and this act took him out of the class of fellow servant.

The Commission which we appointed will come in undoubtedly with a bill to abolish the rule of non-liability because of negligence of the fellow servant. I also recommended the abolition of the doctrine that a man working at a defective machine takes the risk.

GOVERNOR NORRIS—That is called "The assumption of risk."

GOVERNOR FORT—Yes. And also the rule, that, if a man knows the machine is defective and notifies his employer and by his direction continues to work beyond what may be said to be a reasonable time, he should assume the risk. Those to me are the most abhorrent things in the present rules in relation to master and servant. The modern machinery we have, as compared with the character of machinery when that rule was established, and the necessity now existing for a man to work and his absolute inability to refuse to work, even when the master puts him to work at a machine he knows is defective, is so apparent that such a rule is revolting, not only to legal principles but to morality. I believe those two rules will be abolished by the legislature in my state. I recently had some long conversations with Mr. Clark who is the head of an establishment in my state employing 7,000 people

He said to me "they have great mills in Scotland and they have working men's compensation laws, so much for the loss of a hand, so much for the loss of an eye, so much for the loss of a leg and so much in case of death and I believe that to be the correct system," and he was very anxious to see it established in the United States for this reason, that now the employer is unable to insure with any definiteness as to accidents; but with such laws there would be a greater element of certainty and he could insure himself absolutely: and it would be a great thing for the manufacturer if he could just charge up his insurance each year and know that was all he could lose by accidents. Mr. Clark was also very strongly in favor of the abolition of the different Common law rules about which we have been speaking; and it is rather encouraging to see a man of Mr. Clark's character and large business interests taking the position he does on this subject. Mr. Dixon takes the same position. I do not think it is the larger manufacturing interests of the country that are opposing it. They are all beginning to see that the present system of trial by jury and uncertain verdicts, with the ambulance chaser working up cases, results in a large part of the verdict going to the ambulance chaser rather than the employee who is injured. As Governor Hadley said yesterday when the corporations and large manufacturers realize that it costs them less to care for their people properly by removing this present rule of the Common law, they will be the first to urge it at present. We have heard from it in the New Jersey Legislature for at least two years. Some bills have passed one of the houses and not the other but I hope, under Governor Wilson, we shall see New Jersey work this out satisfactorily. It is a live question. The old rules are antiquated and should be abolished.

GOVERNOR MCGOVERN—What Governor Fort has said is in keeping with the trend of the best thought in Wisconsin. There, the matter of compensation for injuries to men, is a live question and a Committee which has the matter charged has been at work for some months, in fact ever since the Legislature adjourned more than one year ago, and that Committee will report a number of bills providing in substance for the abolition of the present system of the law of negligence and the substitution of compensation for injured workmen. Governor Hadley seems to me to have very simply and compactly and comprehensively stated the objections

to our present system and everything he has said, whether upon the standpoint of the burden to the tax payer or the expense of the employers or workmen, is for the abolition of the entire system and the substitution for it of the simple comprehensive plan of compensation in every case of injury, whether the employer or the employee was negligent, if the injury occurred in the course of the employment. It has been said that every country in the world except ours has made that change and experience under the new plan approves of it and shows it is beneficial not only to the employees but to the employers. Of all the countries that have adopted this system I think the system in Germany is the best. There, there is a plan of compensation not only for injury but for sickness and there is an old age pension. The workman contributes for the old age pension fund but does not contribute to the fund devoted to injured workmen. That is raised only from the employers. In talking to a German professor in one of the Universities I heard him say that the German employer only pays a cent a day towards this entire fund for old age pension and only a fraction of a cent a day towards the fund for relief of injured workmen.

GOVERNOR WILLSON—You mean per head.

GOVERNOR MCGOVERN—Yes. One hundred men would be $1.00 per day and he said the economy was very great.

The difference is, there is no constitutional impediment there, while in our States there are constitutional prohibitions which make a compulsive system almost impossible so long as the Constitution remains unchanged.

GOVERNOR HADLEY—What is your system?

GOVERNOR MCGOVERN—It provides for an optional system and this point I would like to bring before the Conference: how to bring the workingmen and the employer under the optional system. And that is certainly a task. You can readily see, if it is proposed to shift the initial burden from the shoulders of the workingman to those of the employer, to be by him in time shifted upon society as a whole, that that prospect will make the new plan attractive to the employe, and therefore, if it is offered to him, the working man will prefer the plan of compensation to the present system of litigation for under the present plan the initial burden is on the working man and he can shift it to the employer

only by a law suit. If it is shifted now to the employer and later on to the public, you have offered something that will attract the working man and he will enter into such an agreement. The question there, so far as the working man is concerned, is as to when he shall exercise his option. And labor organizations are in favor of having this option exercised not at the time of the making of the contract but after the injury, for the reason that the working man who has been injured is in better position to determine whether he wishes to take the compensation under the new act or fall back on his common law right and obtain damages under the common law. The man who has a slight injury would prefer the compensation act. One who has been mutilated or whose health has been permanently destroyed might prefer the very much larger damages which would follow a law suit.

The objection to that plan is that it does not do away with the litigation. There would not be so much but the employer would have to retain lawyers and have their defense machinery ready for a law suit and you would have all the waste of the present system. So that there are those in Wisconsin who think the option should be exercised right at the time of the contract and then there will be no waste but everyone will take at the rate fixed, so much per eye, per leg, per arm, etc. That is one thing we haven't settled, whether the selection, so far as the working man is concerned, shall be made at the time of the employment or after the injury is sustained.

The other proposition is how to bring the employer under the terms of this act. Of course, we all realize that the working man can not be compelled, he must be brought in voluntarily. In the hazardous employments the employer may be compelled, but the idea at the present time is to have a system, partly voluntary and partly compulsory, so the effort is being made to bring the employer within the provisions of this new plan, and in order to do this it is proposed to do away with the rule as to the assumption of risks, and all are agreed upon those two propositions.

Now, as to the third proposition, we are not agreed as to whether we could do away with the defense of contributory negligence. If that were done away with, every employer would immediately come in, because, if that were done away with, a damage suit would be a dangerous thing. But the employers do not want to

be compelled to come in so they ask that the rule as to contributory negligence be retained, consenting to the abolition of the other two.

Now what will be the outcome along this line? Possibly there will be a compromise and the rule of contributory negligence will be modified, but for one I should very much like to hear discussion upon these two points, first, as to when the employees, the working people generally should exercise the option of election; and, secondly, whether the rule as to contributory negligence should be abolished or modified or retained.

It seems to me that all who have considered the subject must realize that the present plan is not satisfactory to anyone. It is expensive to the employer, burdensome to the tax payer and unjust and unfair to the working man and we shall not make the progress that we should make until we have effected some substantial reform along these lines.

GOVERNOR HARMON—Does not the attempt to induce the employer to come in, by doing away with the defense referred to, induce the workingman to stay out?

GOVERNOR McGOVERN—Yes, that is the fact. I was just about to say that if we abolish the defenses of negligence of a fellow servant, assumption of risk and contributory negligence, the workingman might refuse to come in.

GOVERNOR HARMON—He would rather sue.

GOVERNOR McGOVERN—Yes; and that is a matter very difficult of adjustment.

GOVERNOR MARSHAL—Where would we be if we abolished assumed risks, contributory negligence and negligence of fellow servant, and then passed a workingman's compensation act which was not obligatory but purely a matter of choice. Would not we make confusion worse confounded than it is now? Will it be possible in justice to all persons concerned to accomplish such a thing as that in states such as my state where you can not compel anybody to submit either to arbitration or to accept a fixed amount of damages for instance. As suggested by Governor Harmon if these ancient rules of the Common law are abolished and there is no way to compel either arbitration or an acceptance of a certain fixed damage, where would we be?

GOVERNOR McGOVERN—We can rely upon the sense of fairness and general intelligence of the employers and employees. Governor Hadley has told us that out of $95,000,000 paid by the employers, $55,000,000 went to defray the expenses of the litigation and only $40,000,000 to relieve the man injured.

GOVERNOR MARSHALL—I ought to keep my mouth shut but I can not on this question. Suppose we have a working man's compensation act, which, of course, cannot be made obligatory, to which the employer and employee may consent either before or after the accident: Suppose you pass that and then let the old rule stay in effect, will you or will you not come nearer to accomplishing what you want, the ending of litigation?

GOVERNOR McGOVERN—No, sir. If the old rules remain, the employer won't come in to the operation of the new plan. He will not have any incentive. The abolition of these rules is for the purpose of inducing or forcing the employers to make a choice between the old system modified by the abolition of these common law defenses and the new plan which is economical, fair and just.

Now I can not refrain from saying that on yesterday we listened to an instructive discussion as to whether conservation should be carried on by the states or nation. Here is a chance to conserve life and limb by the states and the states will put themselves in a better position to lay claim to the right to conserve the natural resources if they will act within paths which are distinctively open to them and put on the statute books legislation which will be highly beneficial to the industries of those living within these states.

GOVERNOR WEEKS—Have the manufacturers of your state ever come together—have they ever had a conference on this matter?

GOVERNOR McGOVERN—Yes they have. They have met with this Committee from time to time and have presented their views and it is proposed that the bill as drafted will be satisfactory.

GOVERNOR WEEKS—Have the leaders of the working men been invited?

GOVERNOR McGOVERN—Yes, the federation of labor has been there with its officers and attorneys and that federation has prepared a bill very similar to the bill recommended by the Committee. The difference is only as to two points: When the work-

ing man shall exercise the option and what shall be done with the rule as to contributory negligence.

GOVERNOR WEEKS—Do the manufacturers favor a specific amount for death or do they want taken into consideration whether a man is a single or a married man and what amount he was earning? Generally those matters are considered important.

GOVERNOR MCGOVERN—The rule is three years average earnings.

GOVERNOR MARSHALL—That is unusually good.

GOVERNOR MANN—This is a question that concerns us in Virginia just as in other states and I approach the question as Governor Hadley because I have been of counsel for plaintiffs in damage suits and for corporations against whom damage suits were brought. In our state we have a constitutional provision abolishing the doctrine of fellow servant and the assumption of risk but we have left standing the defense of contributory negligence. Our constitutional provision is to this effect, after providing for the abolition of the doctrines of assumption of risk and fellow servant, that the legislature has the right to enlarge but not to diminish the operation of the constitutional provisions. In other words, the legislature can pass acts making settlements, so far as affects the employee, more liberal but can not make them less liberal. The legislative enactment was just a little before the constitutional provision was adopted.

We fixed the liability for death at $10,000. As I understand the common law, there could be no recovery in case of death because the liability died with the person and when the statute gave this remedy, it annexed to it this limitation of $10,000.

Now after this constitutional provision was enacted we have had more or less discussion of this matter in our legislatures. The question we had first was the abolition of the limitation. They wanted to get rid of that. When that was discussed, this question came up, the right of the small manufacturer,—because if you take away the limitation, you destroy the credit of the small manufacturer. One accident and a bad injury could destroy his capital and take him out of business. So when that question was discussed small manufacturers came up and said "Bankers inform us if this act is passed that they would have to curtail our line of credit." That was an important matter. A large part of the

business in the country is done by small manufacturers. Their earnings are large but the capital invested small.

Now I am not expressing an opinion on the question of doing away with the doctrine of contributory negligence, but it is a dangerous proposition. Some fellow might put his hand in a dangerous position and being asked what he was doing would say, "Feeling for a furlough."

GOVERNOR MCGOVERN—Have you ever heard of a working man who intentionally injured himself?

GOVERNOR MANN—My experience has been that in almost every case where there were injuries, they were brought on by contributory negligence or negligence of a fellow servant.

GOVERNOR MCGOVERN—My question was directed to the man who was "feeling for a furlough."

GOVERNOR MANN—I was conveying an idea and not making a principle. I just wanted to show you what a man could do under certain conditions if you abolished the rule as to contributory negligence.

GOVERNOR MARSHALL—What do you think of the doctrine of comparative negligence?

GOVERNOR MANN—That don't amount to anything with a jury. Whenever you have a jury you will have a recovery.

Now here is what I think we ought to do. The discussion in our State has been as to whether we should provide any certain compensation and make it a fixed charge on the business. When we do that we bring into question the burden that must be borne by the other employees who are not injured, because to the extent that the fixed charges take up the income of the corporation you deprive that corporation of the power to compensate the well man, or you put it upon the man who deals with the railroad company. So far as that is concerned the public has to bear the burden anyhow but I think the thing to do is to have something fixed so that a man don't have to go into court. That is the thing we have to deal with. If we could have optional insurance that would be the best thing that could be done and as to the time when that contract should go into effect I think it should go into effect when the parties are on an equal footing. A man ought not to be allowed to make the choice when he has the ad-

vantage, That choice should be made when the parties are on equal terms.

GOVERNOR HARMON—That means when they make the contract.

GOVERNOR MANN—Yes, and I think if any arrangement can be made by which we can make certain compensation for loss of life or limb to the man or his family right away, they will receive more than they get now.

GOVERNOR NOEL—The state constitution of Mississippi in 1890 altered the common law rule as to assumption of risk and fellow servant with the idea of throwing upon the business the risks of operating. Nothing was said about contributory negligence and when the matter came before the Courts which was about twenty years ago, contributor ynegligence, undermined both the constitution and the statute and left us nearly where we were before. "Defective appliances" was no defense. With slight exceptions, the fellow servant rule was practically abolished, but when we came to the doctrine of contributory negligence, the court applied it and we were hardly any moved from where we started. Then the legislature took up the proposition this year and abolished both of those defenses by the doctrine of comparative negligence. It provided that the defense when made should be passed upon by the jury and that the law should apportion the degree of negligence of which each were guilty. That was the only way to eliminate those defenses. You have to deal with the three questions together unless you would take up the doctrine of comparative negligence and leave it a question of fact for the jury and when that is done the employe is going to recover and the employer is going to have to settle.

We had lengthy constitutional and statutory provisions covering the matter but the doctrine of contributory negligence came in and made it an empty shell.

Now I concede that every business should bear the expenses incident to that business, not only of the capital and labor invested but of the risk which capital and labor undergo. That is the way it ought to be. Those who are the consumers of the product of that business should pay the costs incident to its operation and it should be distributed over a large field and no one would have to suffer, when the parties contract, when both are free to

contract. If you attempt to have them make a contract when one side or the other has the advantage it won't do. The side with the advantage will always want the best of it. We had the fellow servant and the assumption of risks doctrine abolished but because there was the power to contract away the risks, the contributory negligence law came in and defeated all the other provisions.

It seems to me that the solution of the thing would be to allow them the option to accept the fixed amount or put them under certain disadvantages if they did not and that the recovery should be in proportion to the injury and to the man's earning power. Then if he don't accept it let him go to litigation under disadvantages which would make it practically compulsory.

THE CHAIRMAN—Is there any further discussion on this subject?

GOVERNOR DENEEN—I rise, not to discuss this matter but to state the constitution in our state.

In my last message to the legislature, I requested the general assembly to confer upon me authority to appoint a Commission to investigate the subject and it was discussed considerably and, at the close of the discussion, authority was given me to appoint the Commission numbering twelve to be equally divided between employers and employees. I had asked for a Commission of nine so I might appoint three employers, three employees and three others. I had in mind a man who has been active on this subject who is a Professor at the University of Chicago, but the Federation of Labor objected to this and finally the manufacturers' association agreed with the Federation of Labor. So I followed the terms of the Legislative act and appointed representatives of the great industries, railroads, manufacturers, etc., and also appointed men representing the labor interest of the state. They conferred together for a number of months and were unable to come to a conclusion. The Chairman for the Federation of Labor was on the commission and agreed with the employers and manufacturers' association in reference to settling at one time both the liability of the employer and the compensation for the injuries. The Chairman of the Chicago Labor Organization however took an entirely opposite view and the Labor Representatives were unable to agree upon a policy to be pursued by them and so the Com-

mission made no report except that they were unable to agree. Now we are trying to have a voluntary commission to take the investigations made and the evidence submitted to that commission and agree upon the law. The manufacturers are willing to have the rules of the common law changed provided they are protected by the compensation act. Some of those who represent the labor interest take the view that they would not be treated fairly enough until the common law rules had been abrogated. It occurred to me that that was a needless fear because the law itself would take care of that but that was put forward and defeated in the action. I noticed last week that the National Federation of Labor agreed with the Chairman of the State Federation of Labor about that matter and we are now hoping to arrive at a conclusion. I shall in my message to the General Assembly in January make some suggestions along that line.

I have been very greatly interested in the discussion but for obvious reasons I do not care to state my view because I would like to be requested to appoint a voluntary commission which will submit its views on this subject. We hope and believe we shall be able to arrive at something definite and we have watched with a great deal of interest the discussion of the Commission of the National Conference on this subject.

I will add that the death limitation is $10,000. I was a member of the legislature in 1893 and I remember how that was discussed before it was changed.

GOVERNOR HARMON—Changed from what?

GOVERNOR DENEEN—$5,000 to $10,000.

GOVERNOR FORT—New York used to have $5,000. but they have abolished the limitation all together.

GOVERNOR HADLEY—In order to make this of as much practical value as possible, I offer this resolution to be considered by the resolutions committee, if we have one, and that is that each Governor in whose state there has been a report formulated or any bill drawn as the result of an investigation of the question, be requested to transmit to the Governors of the other States the result of such investigation, so that each shall have the benefit of the experience of all.

GOVERNOR HARMON—Make that motion that they be sent to all of the Governors.

GOVERNOR HADLEY—Very well I accept that.

GOVERNOR HARMON—I second the motion.

GOVERNOR WEEKS—I would like to have seconded that and so would others.

A vote being taken the motion was carried.

THE CHAIRMAN—I presume, in that way, we will all get the information we desire on this subject.

GOVERNOR DENEEN—I would like to ask some questions on the matter that was discussed yesterday if it is not closed.

THE CHAIRMAN—Nothing is closed.

GOVERNOR DENEEN—Then I will raise that this afternoon.

THE CHAIRMAN—Perhaps that would be better.

GOVERNOR BROWN—While we are on this general subject of conservation of human life there are also some other points of momentous importance to most of the American States that it might be well for us to consider. These are brought about by the fact that for the last twenty years, I might safely say continuing periodically and sporadically during that time, there has been legislation upon the matter of the income of common carriers.

We have drifted away, in a measure, from one great point of consideration in this matter of legislation upon the carriers and that is the American people lost sight of the fact to a great extent that the person who puts his or her money in an investment in the stock of carriers has less right than the person who invests in a farm or factory or anything else. In some of our states we have passed laws, whether by the Legislature or by commissions, which have charge of the matters, which have cut down the passenger rates from three cents to two cents. Take Governor Harmon's state: The Legislature passed a law some years ago reducing the passenger rate to two cents a mile. In my state, Georgia, the railroad commission reduced the rates from three cents to two cents. Now if that same Legislature had reduced, co-ordinately, the price of corn from seventy-five to fifty cents a bushel and cotton from fifteen cents to ten cents the members would have had to hunt the tall timbers in a big hurry. I think mobbing, by the average farmer, would have been considered right under the conditions. The demands of Commerce in this country—the devel-

opment of the need for protection of human life, are growing in geometrical proportion from year to year and we have therefore reached the point where we must not so much consider it the matter of compensation to the carrier as we must consider the demand upon those carriers for safe and expeditious carriage. For instance you now find Congress very wisely appropriating money for opening water ways. There is such a movement of heavy goods in some parts of the country that the rail carriers can not handle the goods satisfactorily in the masses in which they move. Therefore, these great arteries are being opened for the transporting of heavy goods. There is a great amount of Commerce which must be expeditiously handled and there are millions of people who must be safely carried. The greater the population, the greater are the dangers, and we therefore must come to the fact and must train our Legislature and Railroad Commissions to the fact, that safety to the people is really the Supreme Law.

Of course, it must never be tolerated at all, that any discrimination should be allowed which will minimize the power of one community and emphasize the power of another and in the same way we must never tolerate the thought that any carrier, by any means, can put a barrier on the progress of the country.

But I don't emphasize these thoughts, I merely put them out for your consideration that we should now face the fact that we have reached the stage in the development of the American Republic where we must make the appliances which protect human life, one of the objects of our consideration and we must face the fact, that no matter in what a person invests his or her money, it must have the equal protection of the law and those who administer the law.

THE CHAIRMAN—I assume that that closes this discussion and the next address will be by Governor Sloan, on "How Can the Work of the Conference be made Most Effective for the Coming Year."

GOVERNOR SLOAN—I have not any formal paper on the subject and what I may have to say is directed more particularly to the business sense of the Governors present and not particularly for publicity but for our own consideration. There are some matters that Governor Deneen desires to put before you and I therefore

suggest for you to permit me to say what I have to say this afternoon when the general discussion is up. What I have to say I hope will bear on what may be done for the Governors present with reference to future meetings.

GOVERNOR ANSEL—I move that we adjourn at one o'clock and reconvene at two. We had a late session yesterday and let us put in a few extra licks today.

The motion was seconded and was carried.

THE CHAIRMAN—I believe Governor Deneen has something he wishes to put before the conference.

GOVERNOR DENEEN—I rise, not to discuss this matter, but to ask some questions regarding certain phases.

I listened with a great deal of interest to the very carefully prepared paper of the Governor of Montana and to the statement of the Governor of Colorado, with reference to the conservation movement in the West and I refrained from discussing it because of my lack of familiarity with the situation as it applied there and also generally with the question. My attention has been given to the conservation of my own state but not the states of the West. But as I listened to the statements made by the Western Governors, it occurred to me, that much of the complaint that was made, was made with reference to the policy of determining how much land should be withdrawn from public entry. Now I will make a few preliminary statements and then propound the questions I desire to submit.

In the first place the conservation movement in the west relates to government land now owned by the federal government.

GOVERNOR SHAFROTH—There is no question about that.

GOVERNOR DENEEN—The Governor of Colorado said he believed the policy of the Government should be to dispose of this at once.

GOVERNOR SHAFROTH—In the course of a reasonable time.

GOVERNOR DENEEN—The Federal Government should dispose of it, not as carrying on business.

GOVERNOR SHAFROTH—No, sir; an entirely different rule applies.

GOVERNOR DENEEN—That the State should not be expected to dispose of them—

GOVERNOR SHAFROTH—Except to a reasonable advantage. But the difference is, that the State in disposing of property, disposes of the property in a way that the property pays the state taxes for the purposes of keeping up the Government and the Federal Government disposes of them where they do not have to pay any taxes. We do a limited amount of leasing of our lands and a limited amount of leasing coal lands but all that money goes to the Government of the State.

GOVERNOR DENEEN—Under what theory do you complain that it requires an expenditure of taxes by the State to control Government lands not under State appropriation.

GOVERNOR SHAFROTH—On the theory that where you have a large territory to control you have people living all over it. Violations of law are committed in one place and these have to be attended to and you have to have school houses in reach of the people and that requires a great expenditure of money and all of those things make it necessary that every portion of the State respond in taxes.

GOVERNOR DENEEN—If the Federal Government turns over all this land to the State, if the State does not convey to private persons there would be no taxes for the land.

GOVERNOR SHAFROTH—No, sir; the state holds them for the same purpose of getting the greatest benefit out of them for the whole people.

GOVERNOR DENEEN—Now, as to the disposition of lands, I have not an accurate recollection, but the recollection I have is the public lands in our State were disposed of as follows: That the swamp land was conferred on the state on the theory, it would drain and develop the swamps, with the limitation fixed on the amount to be conveyed to any one person.

Then, later on, the Federal Government conveyed to our State a large amount of land between Chicago and Cairo, on the theory that the state would convey that land to a corporation to get from the Lakes to the Gulf. Like grants were made to other Southern States on the idea that a line would be built from the Lakes to the Gulf and it was so limited that no one person could acquire any large amount, but it was also understood that immediate

distribution should be made to settlers for the purpose of the development and because of that and on account of the large amount of ground that Illinois had, it was sold, most of it, for $5.00 an acre.

Would it be your view, Governor Shafroth, that any large amount of this land should be donated as a gift?

GOVERNOR SHAFROTH—No sir; we are not asking at the present time that the Government grant these States the body of land within the body of the States. Texas never had any public land, yet they feel satisfied with the manner in which the Federal Government has disposed of their public lands. Our theory is that there should be a sale of those lands, in limited quantities, to individuals.

GOVERNOR DENEEN—Should the Federal Government fix that amount?

GOVERNOR SHAFROTH—We would be perfectly willing. The law in our state, as to the amount for an ordinary homestead, is one hundred and sixty acres as to ordinary land and three hundred and twenty acres as to desert land. That has been enlarged during the last four or five years.

GOVERNOR DENEEN—Now under the Carmichael agreement, each citizen who owns ten acres of land could get an accurate analysis of the character of his land and we are expending a great deal of money on that. The men who have to do with this matter and who have discussed it are farmers and they have been educated as to the character of land and also as to the kind of development in which they would get the greatest good.

Our people want to have the government prevent the exportation of Rock Phosphate on the theory that it will finally be needed at home. It is a well known fact that Germany and Europe are taking all the Phosphate they can get from our State.

Now, Montana has beds of Rock Phosphate and I suppose some of the other Western States. Now should the nation keep those? What would be the views of the western States as to the Rock Phosphate beds? Would the State have power to keep those?

GOVERNOR SHAFROTH—It is not our expectation that the National Government will convey to the state those lands. There are certain laws by which that land is taken out. Every entry made must be made by the individua under an oath that he does not

take it out for any other person or corporation. His right of election is fixed.

GOVERNOR HADLEY—It can not be taken by an individual at all if the National Government withdraws it; and you are complaining of the withdrawal.

GOVERNOR SHAFROTH—Yes; we are contending this with the phosphate land or any other land. We think, when this is done under the laws, it ought to be based on the amount of land that should be taken up or subject to some law of that kind. There ought to be free access to let this land be developed and whenever there is a market for this Phosphate it will be sold. We think the best conservation is by individuals themselves. It is a live question as to improving our land. Our lands have not received the advantages they ought to have. They are fertile and level as a rule. There is no such a thing as purchasing fertilizers for our land now.

GOVERNOR DENEEN—That may be true now of the Western States. The land in Illinois is exceedingly fertile. Some of it sells for $275. an acre, but still we are using fertilizer, and the time is coming when we shall have to use more fertilizers. Take Phosphates and only the more advanced agriculturalists use them but there is a tremendous use anticipated in the future. Men who would buy Phosphate beds now would not have bought them ten years ago to hold for the long future because they could not anticipate the developments of science, but large corporations can anticipate it. Our State is fifty per cent. arable. Nearly all of it can be cultivated. We have been compelled to pass law to prevent the holdings of large bodies of land by corporations. There was one body of thirty-thousand acres held and we passed a law requiring its sale in five years. The newer states can fix that, while they have the opportunity.

Now I believe on another matter, that everybody considers it an advantage to have one authority govern one river. That has been tried on the Mississippi. It was not satisfactorily done by the states. Our scientists tell us that the Mississippi has been interferred with by a too rapid development of the country and there is some popular understanding that we should reforest certain districts. That theory has been adopted in Germany and if the land is given to the State, will they give that careful consider-

ation to the matter of reforesting that the General Government will?

GOVERNOR NORRIS—In the first place, practically all the army engineers report it to be the fact that these forests will not be the means of the solution of the flood question in the lower Mississippi. Of the agricultural college experts of the West, Mr. Chamberlain has given the matter of the holding back of the Mississippi more extensive consideration than possibly any other man of this country. He maintains that the building of dams at the head waters will be the only possible means of solution for the flood question in the lower Mississppi, the constructing of reservoirs.

We have, therefore, the army engineers, who are possibly the most advanced figures on the subject of flood, maintaining that the reforesting will not solve the question to any great extent and the agricultural experts claiming that the dams are the only solution. Therefore, it seems to us, that the experiments so far conducted by the Government have not proven successful. I know that has been so where it has been tried in Colorado. It is theoretical and experience shows it so far to be a failure.

Now, the next proposition is, if you eliminate the grazing land and have them plowed you will thereby retain so much more moisture than you could by foresting that every incentive should be given to plowing the land. In other words several hundred tons of moisture will be conserved in plowed grounds whereas only a few tons of moisture will be held by forests on the same area. So it seems to me that the solution will be in plowing the ground for holding back the water rather than by the building of reservoirs. If the land is turned over to the state, the state can part with them to agriculturalists with such terms as will insure the plowing of the land and the retaining of the moisture and will solve this question much better than reforesting.

GOVERNOR DENEEN—I understood that would be the explanation, but the point I make is this. I believe we all agree that we should conserve. We have discussed it a good deal in a theoretical way, accumulating water in reservoirs not only for irrigation but to benefit the rivers by avoiding floods. Now we can dam a few sluggish streams, but to handle eight thousand miles of navigable water is another thing. But the point is this: The necessity for conservation is admitted but the methods are under dispute

and I think it is unwise to have the Government let go, before the States reach the conclusion. I sympathize very much with you gentlemen, on the doctrine of withdrawing public lands and I admit mistakes have been made rather in the line of withdrawing too much than too little and it seems to me that in a discussion of this kind, what we need is a statement as to the remedy, an outline of the policy which should be pursued upon which we could agree. So far as I know each state has its own way.

Now about the coal: If I understand the situation correctly they lack coal in Oregon and Washington. They have to depend on Alaska. They have the very best kind of coal in Alaska and the Pacific Coast will have to depend on that. Now if Alaska should take the position that it should retain its own coal beds and not allow any coal to be sold to the Pacific Coast or if one great aggregation of capital got hold of all the Alaska Coal Mine, would not that aggregation control the destinies of the Pacific Coast?

GOVERNOR SHAFROTH—Of course, if one concern bought up everything, but that is a problem that we will likely not have to face, with the present tendency towards anti-trust regulation. We believe in competition. We don't want monopoly, but it is an alarming condition to-day, that they have to import coal from Alaska when they have coal within their own borders to-day. It is a great hardship that these pioneers can not go out and take up land and get coal right from their own state but have to import from Alaska.

GOVERNOR NORRIS—Now I want to explain your assumption that these coal lands, if they passed from the Federal Government to the State, might possibly come under one ownership. We ask that the lands be turned over to the states under such regulation as congress may see fit to impose. Congress may see fit to impose the condition that they should be sold for so much an acre or be leased not exceeding five years or may impose other conditions. Our theory is that Congress can impose these conditions or can refuse to part with title until the states have made laws which properly conserve and regulate the disposition and use of these lands forever. Those conditions would be a part of the grant, as inviolable as the obligations of a contract would be, and under those conditions there would be greater safety from passing under monopoly than in the Federal Government. One

Congress can make and the next Congress unmake but when passed to the State it can not be changed.

GOVERNOR DENEEN—Some times we change from conservation to reservation. The Governor should not enter upon a policy of reservation but of conservation.

The matters of the Phosphate and the Coal and the head waters of the great rivers traversing the country are matters of great importance to all men for all time and we can not afford to make a mistake and we should get clearly in mind the policy of the Government. We have had a great deal of trouble in our state about water power and there will be likewise trouble with dealing in the Phosphate land and the head waters.

GOVERNOR SHAFROTH—I want to say a word on the matter as to the forest. It is a mistaken policy of the United States Government that the mountains of the west are covered with timber. Some of it is good but most of it is no good. Generally it is bare at an altitude of eight thousand feet and for some distance below that it is quite small and of very little use. There has not been such a great waste of timber in the west. Generally the cutting has followed the line of the railroad, a mile or two from a railroad and all of it has been put into lumber.

GOVERNOR HADLEY—Has not the burning of timber been a great source of loss?

GOVERNOR SHAFROTH—Fires have occured in the West and destroyed in one week more timber than has been cut in the entire history of the west. We had a fire in Colorado not more than four weeks ago on the forest reserves which destroyed a good many miles of timber. When I was in Congress I attempted to get through a bill which required that widths of timber should be cleared so that fire could not over leap the cleared space, but for some reason or other it was thought it might be the subject of monopoly and the bill was defeated. Also while in Congress I had placed upon the Statute books of the United States some beneficial laws that we have in our State. Back in the sixties we made it a criminal offence to leave a camp fire burning and any attempt to set fire to a forest was severely punished. Those laws have been placed on the United States Statute book so that similiar offenses on the Government lands can now be punished.

I feel that this matter of conservation will adjust itself. It naturally responds to the demands of Commerce. You are going to find that reforesting is going to take place whenever needed. In some places in the country, tremendous growth can be made in one year with some trees. Some trees grow four or five inches a year. In the mountains, especially above seven thousand feet it will take a hundred years to grow a tree. Those conditions are going to be solved by nature and not by the demands of Congress.

GOVERNOR SLOAN—I want to express another Western view, from what has been expressed in reference to this matter of disposition of public land. I don't think we insist that the National Government should grant to the State the public land.

GOVERNOR SHAFROTH—I don't think any of us do.

GOVERNOR SLOAN—I understood from Governor Deneen that he entertained the notion that that was the view we took in the west. What we wish particularly is some definite policy on the part of the National Government relating to the disposition of lands, that will result in their speedy development and the proper use of the natural resources, such as coal, oil, timber and water. We further hope that in case the Government determines to hold the titles to these lands and adopt some policy of leasing the coal and oil lands that it will be done on some liberal policy that will not result in increasing the burden of the people of the west in the way of increased price for the product, coal and oil. There is the danger, that we may in that way be made to pay an unreasonable price for our coal and oil, which we greatly need in the development of our resources. I make that statement to clear up the impression to the contrary that any person might entertain.

THE CHAIRMAN (Governor Marshall)—I regret exceedingly to have to leave this conference but a prior engagement makes it necessary. I can not leave without saying how very greatly I have appreciated the meeting with my fellow executives. The gracious hospitality of the people and the generous kindly greeting from the Governors are dear to me. I for the first time realize how valuable these conferences may be and I wish I could be here to listen to the further discussion but I can not. I hope that the future will so arrange itself that I can stay with you to the last.

GOVERNOR HARMON—I move that Governor Weeks occupy the chair for the remainder of the session.

This motion was seconded and was carried, and Governor Weeks took the Chair.

THE CHAIRMAN (Governor Weeks).—We will proceed with the second topic, "Direct Primaries" and if there is no objection Governor Fort will start that discussion.

DIRECT PRIMARIES

GOVERNOR JOHN FRANKLIN FORT OF NEW JERSEY

GOVERNOR FORT—I am a little embarrased at being asked to make this address because I did not anticipate it until the committee insisted upon it after my arrival here.

I think some of us forget the fact that conditions are different in the matter of public affairs from what they were some years ago. The average voter of to-day is about thirty-three years of age, possibly less, and those of us who are older in years, and who have been identified with different methods in the past, find ourselves a little embarrassed by or possibly objecting to what we may deem to be an invasion of old methods. Habit is a great thing with all of us, and when we get a fixed habit, or fixed way of doing things, it is sometimes very difficult for us to change our views at another persons' suggestion, because, naturally, we think our own view may be as good as that of any other person. But the college and the common schools are turning out more educated men, more men who are taking interest in public affairs than ever before, and, as the country grows, this element in the community increases, and we find in our States and cities that the more active men of to-day, those who are moving along what is sometimes called the progressive lines, are among the younger men. And it is a hopeful sign that it is true. The leaders of the more progressive or aggressive—I would rather use that word—movements within both parties are young men.

I am asked to discuss direct primaries and I have made these preliminary observations, because, I think, they are the causes leading up to these new suggestions. The young and forceful men of to-day desire to take part in public affairs more than has been the custom in the past, and they find no way, apparently, to do it so well as through these new methods among which is the direct primary.

In considering the direct primary principle I have concluded to treat of it from the standpoint of the objections urged against it and endeavor to answer them rather than take the affirmative of the proposition. I will try to do it in a judicial temperament. Let us consider, then, the objections raised against the direct primary in States where they do not have it, and which were raised against it in the States that now have it.

(1) The first objection seems to have been this: "It destroys the convention system and hence there is no authority to define party policy."

If party platform promises are not considered of more binding force after the election than they have been in the past it is not of much concern whether there be a platform or not. Fortunately there is a growing public sentiment in these days for holding parties to their promises. This objection as to conventions, in my view, has no force, for the reason that under the direct primary party committees, local and State, are to be elected by the party voters in political districts, and must be deemed to be as representative of the party as delegates chosen from such districts to a convention—let them make the platform.

To illustrate, in my State last year we adopted the selection of county committee members by direct primary. Every nomination is made in New Jersey by direct primary, except Governor and Congressman. The county committee is elected every year. They are the representatives of the party for the purpose of declaring principles as much so as any delegate that goes to a convention. We all know that the platform is not written by the convention. Platforms are written by a committee. Sometimes they are written by an individual, usually it is so, and handed to a committee and the committee reports to the convention and the convention adopts it. A committee elected would have more time and could give more care to the preparation of a platform that

would truly represent the sentiments of the people on all questions. But besides that the promises of the candidate are of more value than the declaration of a convention. The people are coming to place greater reliance upon a candidate than ever before. The man counts for more now in public elections than hitherto and it is one of the most hopeful signs of the times.

I do not want to refer to any particular State, but I know a State in this Union where it was practically the question of the men in the last election. In our State to-day the man that the people believe will keep his promises is almost sure to be elected. In New Jersey, I believe, twenty-five per cent, of the voters lie between the lines in State elections, and in municipal elections probably fifty per cent. and you cannot tell what is going to happen until you know who the candidate is.

Of course, there are exceptions to that rule. We have some hide-bound counties, one or two, but they are getting out from under these conditions even in those counties.

And that is true of nearly all the States. So I don't think there is any longer any reason for using paltform-making as an objection to the direct primary.

(2) Another objection is the alleged expense to candidates. Expense is a matter of pleasure to the candidate. He does not have to spend money if he does not choose to do so. In fact, the law should prohibit it.

The Senator who now represents my county in the Senate is a Democrat; he made his canvass and was nominated; he defeated the organization candidate; he was a young lawyer of splendid ability and character, but had no money to spend. His friends gave him some small sums; he published their names and the amounts after election. It was less than three hundred dollars. He was nominated under the direct primary system, and never could have been nominated under any other system in that county. He was elected when the county went 23,000 Republican.

Money is counting for less in elections of all kinds than hitherto. The country is getting too great and constituencies are becoming too large to be purchased. Where parties present good men at direct primaries there is likely to be no opposition, and, hence, no expense at all is needed. The State provides the election board,

rents the election places and furnishes the ballots. A convention is always expensive. The election of delegates is just as costly, if not more so, than the direct election of the candidate at the primary, and there is the added cost of the expenses of delegates to the place of the convention's meeting. A candidate at a direct primary need not spend any money if he does not choose to. In such a primary the intelligent but poor man has an equal chance for a trial at public service with the rich.

There is one way in which the direct primary is expensive and that will be found to be the chief cause of the complaint, namely, it will cost the men representing the interests, or other persons who seek to defeat a good man at the direct primary, in order to get a creature of their own in office, much more money than under the old system. It seems to me this is a virtue in the system, rather than a vice. We need that method of selecting nominees which will give us the best men—those nearest the people—and make it hard for the personally interested to prevent their nomination.

In New Jersey we elect Senators by counties—one for each. Seven counties of our State elected this year. In those seven counties the Democrats ran candidates in each. At the primaries not one had opposition, and not a penny was necessary to be spent on their nomination. They merely filed petitions. The seven counties were seven of the largest in the State, and in each a heavy primary vote was polled. The direct primary is not expensive, and it is wrong when a candidate makes it so.

(3) It is said to destroy party spirit. If it did do so, that, in many cases, would be a blessing; but it does not. A contest in a party for a nomination always stimulates interest. Anything that helps to get out a large party vote is a good thing.

(4) It is claimed that it weakens the power of the party organization. That depends upon what your view is of what a party committee should be. If you think it should take part in, and nominate the candidate, it does. But if you consider the true function of such a Committee it does not.

What is the purpose of a party committee? My idea of a party committee is, that it is the agency of the party to elect the men nominated by the people, and not to nominate the men they want against those others may want. They, as an organization,

should not take any part in the selection of the candidate at the primary. As individuals they may do as they choose. But after the nomination is made the candidate should have the hearty support of the committee, and should feel that he has their confidence, and they his, in the campaign. I have known contests to be made by the county organization against men nominated, and then after the nomination was made it was said "do not let the organization run the campaign, they were against the nominee." This demoralized things. The thing for the county committee to do is to stand impartial in contests for the nomination, in order that it may put all its force in the election with the confidence of the people and the candidate. All the trouble that has come to the parties in the years past, and all the criticism and abuse, has arisen out of the failure to observe the rules of which I have just been speaking and the organization allowing itself to be moved, by some one or some influence, to use all its power to select the nominee. It is this which makes the direct primary necessary. There is nothing which will destroy criticism like the direct primary.

(5) Another objection alleged against the direct primary is that it is violative of our system of representative government. The first answer seems clear; the *selection* of nominees to be voted for at a general election to elect representatives to legislative, executive or judicial offices is no part of the representative requirement under the Constitution. The representative nature in the selection begins at the election. It does not touch the question of how the candidate shall be selected who is to run at the election for the representative office to be filled.

But if this were not true, to my mind the selection of a nominee at a primary, where those of his political faith all vote, is a representative system pure and simple. Surely such a system is more representative than a back-room selection of a candidate or one made by a convention dominated by special interests or objectionable leadership.

Now, I think I have answered about every serious objection that I have heard made to the direct primary.

Let me make a few general suggestions.

The direct primary system will not prove satisfactory except under strict regulation in the following respects:

(1) The judges conducting it must be impartial, and should be selected, as should the judges of election, by as non-partisan an official as it is possible to get. In our State, because of the absolute non-partisan character of our judiciary, an effort is being made to put the selection of election officers in the courts.

There is some objection to that. I would like to keep the judges as far away from politics as possible. Yet there is much to be said in its favor. With us the judges are absolutely non-partisan. In thirty years of Democratic rule in our State not a single Republican judge of the Supreme Court was turned out of office, and if one died or resigned another Republican was appointed. The Republicans have been in power in our State for the last fifteen years, and there has not been a Democratic judge of the Supreme Court whose term has expired who has not been reappointed. A Democrat dies and a Democrat is appointed. A Republican dies and a Republican is appointed. A man going on the bench for a seven years' term is just as sure of life tenure as if the constitution said so, and no Governor dare change it. There has not been one change for political reasons in our Supreme Court in sixty-five years. The Governor also appoints every county judge and every prosecutor. The county judges are considered to be subject to the ruling party. This should not be so, but it is.

Our Supreme Judges are now divided five to four, and I would just as willingly have any political question before the four Democrats as before the five Republicans.

When we had the great political contest over the "rump Senate" in 1893 the court was composed of six Democrats to three Republicans, and the contest went to the court for settlement. The Chief Justice, a Democrat, wrote the opinion that sustained the Republican position. I was on that bench eight years and I never heard a judge mention politics in any conference at any time. In fact they take no part whatever in politics. One of the judges one night sat on the platform of a mass-meeting of his party and the next day the papers criticised him for it. A justice of our Supreme Court will not even go to a political meeting to hear an address in a campaign.

(2) A system of enrollment at least a year ahead of the primary

election. This is necessary to keep the primary of one party from being voted in by members of another party.

If the Democrats did not have a contest they would be voting in the Republican primary, and *vice versa.*

(3) The method of petitioning or presenting candidates to run for nomination at the primary should be simple and easily understood.

(4) Recounts by order of court should be authorized.

(5) Primary ballots should be furnished by an official at public expense, and one copy thereof be sent to each voter on the respective party enrollments. The ballots should be required to be delivered to the election board and they should address and mail them. No other ballots should be allowed to be distributed.

Under the Australian system you can not see the ballot until you get in the booth; but I believe the intelligent American should be allowed to have his ballot, to exercise his independent judgment, and I believe it is safe in his hands in his home. I like the idea of having the ballot put in his hands, and I think a man's home, with his wife and family, with good surroundings, is the best place he can be when he is considering for whom he shall vote.

(6) The candidates for the nomination at the primary should be put under the title of the office for which nominated, and the voter should express his choice by a simple cross mark (X) in front of the name of the person he favors for the nomination.

(7) Impartial public return and canvass of the vote should be provided for.

Those rules are simple and they are all in my judgment that are needed.

The direct primary is here and it is here to stay. It will soon extend to all States. Popular movements never go backward. The people never give over that which they take on. On this the safety of the republic rests.

We must have methods for the selection of party candidates which will assure general participation in the result by the members of each party. In the selection by one man, or a few men, or by some interest which they represent, of the candidates for office lies the greatest danger to the Republic. Our future is only safe if we keep all forms of election machinery and the right to select, or to be a candidate, open and free and close to the people.

What a comfort it must be to be nominated for an office by the people at direct primary rather than through a convention! After a convention nomination there is always a claim by this or that individual that you were nominated by him or through his leadership or control. In many cases such claims are more or less just. Such men or their friends seldom fail to make that fact known to you, and if you feel that the requests he or his friends make are granted, you will not be doing your duty to the people, they then charge you with ingratitude. The direct primary will remove every obligation save that which you owe to the people. It will eliminate the personal element in nominations and leave the official free and unembarrassed by such considerations.

Our one hundred and thirty-five years of republican government has established that the people are competent to rule themselves and to discriminate on candidates and great issues. Democracy with us is no longer an experiment, and the fears which Hamilton and others had, at the inception of the Republic, no longer are forceful or to be considered.

The direct primary is in line with the advanced thought of the time and is the hope for good men in office and clean government in administration.

It is in line with the modern belief that the individual counts for more than he did. Principles are not everything at an election any longer—men—the candidate—who he is and for what he stands—count for much, and they will count for more hereafter.

It is fortunate that it is so, after all, this government, as our fathers founded it, is upon the individual citizen, and on him, in the last analysis, rests its perpetuity. He should have his voice as a distinct unit of power at the primary as well as at the election, and our future largely depends upon the integrity and zeal with which he exercises his privilege.

Before our Constitution there never had been a governmental instrument handed up from the people to the rulers. Every Governmental chart that had ever existed had been handed down by the conqueror to the people. Our Constitution is founded not on the States, not on the counties nor on the localities, but on the *individual.* "We, the people of the United States, do ordain

and establish * * * this Constitution," is the preamble of the Federal instrument; and we, to maintain it, must look at it from that direction; that the individual is the factor of the future in this great republic. The direct primary gives force to and makes potent the power of the individual in government. It is this power which the influences for evil most fear, hence their opposition.

GOVERNOR HADLEY—I think the very admirable discussion by Governor Fort has emphasized the proposition, which to my mind is of controlling importance in this matter. The fact that the direct primary has come to stay, is recognized by all who are students of our conditions.

It was the abuses of the old convention system that brought it about and it is to the abuses of the present primary system and the correction of the same that we as Chief Executives, should bend our endeavors. One of the things that Governor Fort called attention to is the breaking down of party lines, of party responsibility.

One of the greatest abuses of the direct primary is in one party nominating a candidate for the other or in one party preventing the nomination by the other party of a candidate which the first party don't want. Now no good system has yet been provised to prevent that. The system Governor Fort suggests of having the registration one year in advance is not free from objection. If we can devise a system by which nominations can be confined to the voters of each party, we will do very much towards correcting the abuses of the primary system and maintaining the proposition of the party responsibility along with party power.

Now we must not expect that the millenium will come from the direct primary. The fact that our old convention system was not entirely bad, is shown by the fact that most of us are the product of the sifting process of the old convention. It has been suggested that it would be a good thing, in nomination by direct primary, that we would nominate the head of the ticket and in a large measure those friendly to him and that under our present system we can have a nomination of a Governor and an Attorney General and Secretary of State not all in harmony. But the same thing would obtain with the direct primary. In a small State the direct primary might work alright but nomina-

tions by direct primary would be different in a great State, where the people are widely diversified in their interests, and in their racial characteristics. Where they do not read the same newspapers, where they do not raise the same crops, where they do not conduct the same industry. When you impose too much power or responsibility upon the people of such a State in the manner of making direct nominations or direct votes, you are likely to get many abuses. Consequently our efforts should be directed to doing away with the machinery and confining the operations to the parties themselves and not letting the members of one party participate in the nomination of the candidates of the other.

GOVERNOR FORT—My state is different from most all the others. We elect nothing but the Governor and he appoints everything else, the Attorney-General, Secretary of State, every Commissioner, every Judge in every County, every Prosecutor. The Governor is elected by the people and he does the rest and that is the reason he never goes to the United States Senate after his term expires. (Laughter)

GOVERNOR CRUCE—Having been both the victim and the beneficiary of the Primary System, you will pardon me for referring to this matter. I come from a State which started its system with the direct primary, and before we had any law governing an election, the people inaugurated the direct primary for the nominating of candidates to the constitutional convention. The first election we had, we had no primary election law for State officials but our candidates were elected at the Primary Election that was agreed to by all the candidates running upon the ticket.

The discussion of this question by Governor Fort has covered practically the whole range of the matter as we have seen it exemplified in practice in Oklahoma. The objections that have been urged against the primary system have been well covered by Governor Fort, but I want to say that the question of cost under the primary system is a serious problem with new states and with the larger states. In a state like New Jersey where the people are known and have been known for years, it is not a question of expense but in a state like my own where the people are all people of other states and have practically no acquaintance we have found that the primary system is a very expensive proposition in the way of getting properly before the people with your idea.

To such an extent did the item of expense enter into the voluntary primary, that it was found necessary by our legislature, in passing laws putting into effect the constitutional provision—and I want to say that our constitution makes it mandatory upon all parties to nominate all candidates by direct primary—in putting the provisions into effect, it became necessary to pass laws limiting the amount of money that any parties can spend.

GOVERNOR ANSEL—What is the amount?

GOVERNOR CRUCE—For the Governor and the United States Senator the amount is $3,000, and it is graded down to the lower officers of the state.

GOVERNOR FORT—That is less than the assessment imposed on us by the Committees of our parties.

GOVERNOR CRUCE—Another thing is to require all newspapers in putting any statement in the paper that they charge for, to label it "political advertisement."

GOVERNOR FORT—Do you have to put the man's name to it who puts the advertisement in the paper?

GOVERNOR CRUCE—No, sir.

GOVERNOR FORT—We do.

GOVERNOR CRUCE—Another objection urged by Governor Fort is the proposition that no one shall vote in the primary of either party that is not a member of that party. We have found that in our state where a party is in power or has a close race to make for a County office, and has but one candidate on their ticket they will go into the primary of the opposite party and help nominate the man they think is easiest to defeat. The law ought to be that no man can vote to nominate a man for any party unless he is a member of that party and will in good faith support the nominee of that party.

Another thing we have found objectionable is that our primary election comes too close to the general election. In a state like ours where the contests are fierce and furious you ingender animosity in the ranks of your party by reason of the primary system that it takes more than days and weeks to allay, and the time between the primary and general election ought to be enough to permit old sores to heal over.

I believe the direct primary system has come to stay. It was pposed in Oklahoma, at its inception, by a large per cent. of our

people, but I do not believe that, outside of the practical politicians of Oklahoma, there are two per cent. of any party that are not in favor of the primary system, and when it is worked out so that the objections which have been referred to are removed, the system will find its way into all the states of the union that have not already adopted it. There is another thing that ought to be cured in Oklahoma and I suppose it obtains in other States. In our State we have found that the important offices get all the attention. The selection of Candidates for Governor and the Attorney-General absorb all the attention and the men running for the minor positions are absolutely forgotten. Under our system we place the names on your primary ballot in alphabetical order. The result in Oklahoma is that we nominate for the minor officers the men whose names appear first on the ticket, and in one instance a man undertook to withdraw from a race two weeks before the primary, on the theory that he had no show whatever, but his name had already been printed and he could'nt get his name removed, and his name was first on the ballot and he led the ticket and was nominated.

Now this system does not destroy your party organization. The parties are well organized. I believe the Democratic party has a better working organization than it has in any other state of the Union. The organization comes directly from the people. We do what Governor Fort suggested, we elect at the primary election from each voting precinct the members of the County Committee of both political parties, and we have not done away with the platform proposition in Oklahoma. After the nominations are made, we have our conventions as a whole, and we send our delegates to write the platform upon which the candidates make the race for office, and, as a rule, questions that will enter into the platform have been discussed by the various candidates and as a rule the platform embodies the ideas of the successful candidate, as they have maintained those ideas before the people of the state.

If you gentlemen will try the direct primary system in your various states, you will never go back to the old convention system. I know the old convention system has its advantages. As Governor Hadley has said there is evidence here that the old convention system is not an entire failure. But probably most

of you would have been elected with the direct primary system and then you would have had the satisfaction of knowing that your nomination came direct from your people.

AFTERNOON SESSION

(THIRD DAY)

The Conference was called to order by Governor Weeks.

THE CHAIRMAN—Before we proceed to the discussion of the topics presented by Governor Fort, Governor Augustus E. Willson has a communication to make.

GOVERNOR WILLSON—A great many people engaged in a great many causes have very earnestly written asking for hearings before this Conference. A number of these things were of serious importance but were not within our scope. But they are all very earnest people and I am going to present these matters very briefly.

The first matter on which we should take some action is as to the Committee on Uniform Legislation. The civic federation at Washington last year presented a resolution and it was laid over as unfinished business. At this hour we can not take it up, but we should enter on the record that the matter was brought to our attention and I think we should appoint a Committee to report at the next meeting. It is a subject that we are all interested in

THE CHAIRMAN—Shall we take them up separately?

GOVERNOR WILLSON—Suppose we refer this to the Committee on Resolutions for such a report as they think necessary.

THE CHAIRMAN—You can do that or we will take it up later. The communication from the Civic Federation is before us.

GOVERNOR WILLSON—We have not taken action on it. We have laid it over as unfinished business.

THE CHAIRMAN—Would it not be better to present this matter formally by title and that we take them up at our Executive Session?

GOVERNOR WILLSON—That will be satisfactory.

THE CHAIRMAN—If there is no objection we will consider them as being treated in that way.

GOV. WILLSON—I send herewith the mass of papers which you handed me to make a list to go in the report. Some of the matters apparently should not go in and I don't know which ones to select. The whole business will be less than two pages.

GOVERNOR WILLSON—I wish to say just one word as to Miss Laura Clay. She is a lady of ability and of great earnestness and she will interest any body of men. She won't waste your time. I, for one, have had a great deal of sympathy with this movement. I don't care to speak in any extended way on it, but it is a live question and one on which Miss Clay can enlighten you. I do not think she will take over ten or fifteen minutes.

GOVERNOR SHAFROTH—I move that Miss Clay be invited to address the Governors for fifteen minutes at the end of the program.

The motion was seconded by Governor Fort and was carried.

THE CHAIRMAN—We will now proceed with the discussion of direct primary.

GOVERNOR DRAPER—Mr. Chairman and Gentlemen: I listened with a great deal of interest to the paper which Governor Fort presented this morning. I think he stated the objections to direct primary fairly. I think the only trouble with him was that the reasons he gave against it were not as convincing to him as others. We in Massachusetts are not opposed to the direct primary system but we recognize that great evils have developed in that system as far as it has been carried into effect, and the one great thing which has impressed us more than all others is that no State up to the present time has been able to formulate any system which prevents the voters of one party from nominating the candidates of the other party; and I do not think his suggestion this morning would obviate that difficulty.

I also think that Governor Fort made too little account in his remarks about the expense of the direct primary. I think

the expense connected with direct primaries in the past, if we can judge by reports in the newspapers all over the country, has been quite as large, if not larger than the expenses connected with the convention system. I will say that I was nominated in the convention system without the expenditure of one dollar. I refer to that because Governor Fort referred to several direct primary nominations where no money was expended in any way. In Massachusetts we recognize that a great many evils have grown up in the convention system. But we also recognize that this country has arrived at the point it occupies at the present through that convention system. Governor Hadley referred to the fact that many of us here were the result of the convention system. All the great men who have made names in this country have been the product of that convention system and I don't think it can be called a failure. We have gone on the theory that where our people in any district want the direct primary they can have it. Last year we passed the law providing that, when ten per cent. of the voters petitioned for a direct primary, a direct primary should be had and there were only three districts that petitioned for that change this year. That shows our people were not stirred up over the matter very much.

Another matter that I think is important, if you have the direct primary, you have only men to vote for who are direct candidates for office. The convention system often nominates a man who is not a candidate, and frequently men of that sort have proved to be the very best officials. Under the direct primary system no such man could be nominated.

Now the only point I want to make is this: We are not opposed to the direct primary but we think it is up to the people who advocate direct primary to show that the system is better than the existing system, and so far as I am concerned, up to the present time, I do not think that has been demonstrated. I make no direct reference to any person, anywhere, any time or any place, but I don't think the result of the direct primary up to the present time has been an improvement on the old system and I further feel that, in all sections of the country, the people do not desire this change. I think it is growing gradually on us and I think, in the closely settled and densely populated district, the direct primary is a good thing. But where you have a large sparsely set-

tled state or a large congressional district where men have to travel a great distance to meet the voters, I can not see that it will be a good thing. In one of the congressional districts in Boston we have a direct primary. The people wanted it and we gave it to them, but in the large sparsely settled states and districts the direct primary system will cost more than the prevailing system and therefore while we in Massachusetts are not opposed to the system, we are not convinced it is any better than the system we have been under.

GOVERNOR ANSEL—You know the little state of South Carolina is always doing something. We have adopted this system since 1882. We first had it as a county primary system for county offices. We then extended it to the judicial and congressional districts. For instance, in 1882 I was nominated as a member of the Legislature by the direct primary system. In 1888 I was nominated as Solicitor of my circuit by Direct Primary, the first direct primary ever held for that office in the State. We then extended it to every office in South Carolina, from United States Senator down to Coroner. We have a State Executive Committee appointed by our State Democratic Convention. That committee has its chairman and they make up a plan of campaign for the entire state and appoint meetings in every county in South Carolina at which every gentleman who is running for office in that party is expected and required to attend and there express his views to the people. That is where we express our views to them.

Now we invite to those meetings, not only the candidates for Governor, and we have plenty of them. There were seven in the race the first time I ran and there were two or three the second time. We invite to those meetings every man who is running for a state office and we distribute the time that it is given to different Officers and Candidates. We rotate them. The Governors will speak in this county first and then take a later place in some other county tomorrow and give some other candidate the first place. We keep going around in that way so that every man running for a state office has an opportunity of presenting his claims to a full house. We think this system is the best system we ever had.

The cost is comparatively small. The expense is the railroad fare and the hotel bills, etc., and I may say that if you will excuse a personal illusion that the entire cost of my campaign

when I was running on a new issue never before argued before my people, was $900. In my first campaign and in the second campaign it was less than $300.

We have two sets of meetings and the state officials will be in one part of the State while the Congressmen and Senators are in the other and there is no conflict and they are not held too soon after each other in any county, to wear the people out by speeches.

We have found that works well and we require a candidate to receive a majority of the votes cast. If some one candidate don't receive a majority, the two highest run it out two weeks after that.

GOVERNOR DRAPER—There is only one party in your state and that makes a difference.

GOVERNOR ANSEL—But we do have plenty of candidates.

That is the rule we have adopted in our State. The election comes off in November and the canvass is made in the summer. It is hard on a candidate but he must take the bad as well as the good. By that method he has an opportunity of presenting himself to every man in South Carolina who wants to see or know or hear him.

GOVERNOR FORT—He don't have to go unless he wants to.

GOVERNOR ANSEL—No, but they all want to go. If he wants to he can have a meeting to himself, but the rule has been that every man goes to the County meeting under the supervision of the County Chairman, and the time that each one is to have is fixed by the candidates. When they start out they elect a chairman, a secretary and they dole out the time, so many minutes to each one.

GOVERNOR NOEL—Who fixes the dates?

GOVERNOR ANSEL—The Executive Committee. The candidates today are in one county and in the next county tomorrow. It takes forty days to go around.

GOVERNOR NOEL—How many counties?

GOVERNOR ANSEL—Forty-two.

GOVERNOR NOEL—We have a hundred and two.

I have spoken so much that I feel a hesitancy on this subject.

In 1875 we held a state convention and nominated state candidates. From 1882 on, at the option of the County Executive Committee, we held either an election or primary election and the same as to District Officers. In 1895 we had a state Con-

vention and the system of trading had become pretty thoroughly established and votes were traded. One man would say I have got ten votes I will trade you for ten votes for such an office. Four years later a pool was formed by some politicians in which the governship was given to a man who ought to have had it but when it came to the other officers they traded among themselves and settled every other nomination. The consideration given and received was not money or specie but it was an exchange of votes which was controlled largely by one man.

Then, after the 1899 experience, I was in the State Senate and without having any guidance whatever I prepared a compulsory primary law for everything from Governor to Constable, including United States Senator. The principle was, that we would take the registration that we had four months before the election and we would adopt some regulations and conduct the primaries. The primaries would be held between the 1st and the 10th. Now each party had the primary at the same time. At first we disfranchised the criminal, the ignorant and the tax delinquent. But you must be a supporter of the party for which you propose to vote. That was a limitation that was put in originally and passed the Senate of which I was a member but was defeated in the house. Two years later I introduced the same bill and it was passed by both the Senate and House and it went to the Supreme Court and it was declared to be law. There have been some changes in it but the principle has remained the same. The state executive committee does nothing but fix the first date which is between the 1st and 10th and then the County Executive Committee appoints the Precinct officers to conduct the elections and they hold the elections and make return to the County Committee who declare and certify the result. The Committees meet later of course and declare the nominees who have received a majority and where no one has received a majority of all the votes cast they certify that fact and the two highest run it out three weeks from the first primary.

Now that is the machinery of the election, and platforms and principles are made by a Convention.

The State Executive Committee and the County Executive Committee at the convention select the Presidential Electors and that is the only convention we have.

Now there is no expense of Officers at all. There is no trouble in getting officers to hold the primary. They are paid in Louisiana. One Congressional candidate told me that they had assessed him $3,000. The expense in Louisiana was something like $2,000, but with us there is no expense. Generally we have no conventions and no party platform except the year of the Presidential election.

We run things on the Australian ballot system, which of course you all understand, and everything has run very smoothly with us. The system is perfectly satisfactory and we have had no complaint about it from any source.

GOVERNOR WILLSON—Senator Bradley, one of our Senators in Congress and a distinguished Kentuckian, formerly Governor in this State, desired to pay his respects to you in Frankfort but was prevented by sickness. He is here now and I ask you to hear him.

SENATOR BRADLEY—I simply desire to place myself right with you distinguished gentlemen who have honored our state with your presence. I have been unable to attend any of your Sessions. I have been desperately ill. I mention this, because some of my Democratic friends say that my sickness was caused by the election, but it was not. I was taken sick Saturday before the election, but at the same time I am willing to admit that I was not benefitted by the election. I think but for the election I might have gotten well quicker.

I am here simply to testify to you gentlemen my high appreciation of your visit to our State. I want you to know the high respect in which I hold each and all of you and that it was not my fault that I could not be present with you on the occasions of your various sessions. It has been my misfortune.

I have no doubt your visit will do great good. From what I have noticed in the papers, I think the lines you are pursuing are calculated to do great good to our country.

And, now, assuring you of my profound appreciation of each and all of you I will ask you to accept this for my apology for a seeming indifference on my part.

GOVERNOR WEEKS—(The Chairman). I am sure I speak for all the governors present when I say that we are glad to have Senator Bradley with us and hope he will come often.

GOVERNOR DENEEN—I would like very much to have Governor McGovern tell us about the Wisconsin Primary.

GOVERNOR McGOVERN—Mr. Chairman and Gentlemen, I feel that I ought to occupy the time of this conference only a little while, on account of the very thorough speeches to which we have listened.

Ten years ago in Wisconsin, agitation for the direct primary was begun and six years ago, a comprehensive law was passed applicable to every officer in the State from United States Senator down to the lowest official. Many features of that law have been opened to criticism and discussion but sufficient to say, at the present time no movement is on foot to repeal or seriously modify that law except to perfect and enlarge it. It is not perfected but it is close to it. As Governor Deneen has suggested to me that I discuss one feature, I shall omit everything but that particular feature which is, as to whether the voters should be required to designate the party to which they belong in voting at primary election. All who have addressed the conference thus far have taken it for granted that that matter is too clear for argument and there ought to be a requirement of that kind, as the Governor of Mississippi has suggested, some going so far as to make it a criminal offense for members of one party to vote at a direct primary election of the other. It seems to me that is a very doubtful matter and there is room for a great deal of consideration as to which is the wisest policy in that respect. As I look at it there are two extreme views. Some people in Wisconsin insist that we should have the Australian ballot system with the names of all the candidates irrespective of parties and that the voters should have the right to go into the booth and select Smith on the Republican ticket and Brown on the democratic ticket and Jones on the prohibition ticket. Those men claim it is one of the rights of citizenship to which they are entitled to participate in the nomination as well as to vote.

The opposite extreme is, we find a few who hold that no one but the party man has a right to participate in making the candidate.

Wisconsin is between these two. It observes the secrecy of the ballot on election day but it compels the voter to say with which party he is affiliating. In Wisconsin there are four parties. Ev-

ery nomination is made on one day, presided over by the regular election officers and is as carefully supervised as at an election, because the people of Wisconsin view the matter of nominations as important as elections. When the voter comes in, he is handed a ballot pasted together at the top with a part to tear off; and he retires to the room and tears one part off and votes that ticket and then returns and deposits that ballot and returns also to the election officer the three ballots which he didn't vote. Thus the voter is permited to vote for any ticket he pleases and no question is asked of him, as to whether he voted the ticket of his party. Now, if he is a democrat and wants to vote for one republican friend he must forego voting for every other democrat to vote for that Republican.

Now you ask as to the wisdom of that provision. In the first place it seems to me that there is such a thing as having too much party solidarity. The country has suffered from too much partyism. It has not yet suffered from too much independence on the part of the voter. Governor Fort thinks twenty-five per cent. of the voters are between the party lines and in city elections fifty per cent. Now, are we to say to the twenty-five per cent. in state elections and fifty per cent. in municipal elections that you are to have no voice in the primary and thus disfranchise the most independent and intelligent portion of the electorate? But not only do you disfranchise that number of electorate but you do more. Recently I went to another state and took dinner at a Commercial Club. In that state, the voter is compelled to tell for whom he votes at the primary and I found that the business men would not go to the primary because they would have to leave a permanent record of their affiliations and rather than do that they stay at home and thus the independent, intelligent voter is disfranchised, because, for business or prudential reasons, they don't desire to have their party relations made public. We don't have any trouble in getting them out in Wisconsin because nobody knows for which party they vote.

The minority party in Wisconsin, now somewhat disorganized, after the enactment of this law called a party convention and at that convention nominated a full ticket, making it unnecessary for more than a few to attend the primary election and permitting the others, as probably intended, to go into the republican pri-

mary, intending to injure the republican party but we found that instead of demoralizing the republican party it demoralized their own party more and what ever demoralization exists in that party is attributable as much to the attempt to evade the spirit of the primary election law as to any provision in that law. We did have persons in one party seeking to influence nominations in the other party, and we modified the law still preserving the secrecy of the ballot. The last legislature passed the twenty per cent law which provides that unless the candidate for office at a primary received twenty per cent of a vote for his party he is not nominated.

Now the question of the constitutionality of a law of that kind has gone before the supreme court and the law has been sustained.

It is possible that twenty per cent is two high and that it ought to be changed to fifteen or even twelve, but that law will put a check on the tendency to cross party lines and, for one, I am satisfied that the principle of the Wisconsin law which preserves a secrecy of the ballot, but makes it possible for every citizen to go to the polls and express his preference without declaring his party affiliations, is a sound one and will live. I think, with an increased experience, we will find that the people will abandon the tricks of the politician and when a party attempts to play a trick on the opposite party, while it may be able to influence a few friends, the great mass of people will act honestly, and will go to the polls and nominate candidates for office who they believe will best serve the public after their election. I believe the experience of Wisconsin will answer all objections to the primary law. If I took the time I could answer them. I was asked to speak upon the one point and I have done so at more length than I intended.

GOVERNOR FORT—The ballots or tickets that are handed to the voter at the primary, I didn't understand exactly how those were voted.

GOVERNOR MCGOVERN—The four tickets are handed to the voter and he votes one and returns the other three and no one can tell which he has voted.

GOVERNOR HADLEY—Why should a man hesitate to let it be known that he was either a republican or a democrat?

GOVERNOR MCGOVERN—I have heard that question before but I will leave it to Governor Deneen.

GOVERNOR DENEEN—I was exceedingly anxious to hear from the Governor of Wisconsin. I requested his views, not because I approved of them. I have an entirely different view of the situation. The primary in our state is a party primary and the effort there is to find out the consensus of opinion within the party.

I am free to say that the system is not altogether satisfactory to our party. Quite a number of people will come to the primaries and when asked to give their politics will refuse to vote. There has been a strong popular movement against that feature among the independent element within our state, who don't want to be bound by political affiliations. Some people think it hurts their business, small business men especially.

Now, while we haven't had a very long experience with the party primary we have more experience along some lines than all of you. We enact a new primary law every two years. The Supreme Court promptly declares it unconstitutional. We have now our fourth law which will be tested in a short time. The objection to the old convention system arises out of the fact that a certain class of men who are not independents but rather dependents control both parties. They were for sale or rent. They could be required, for a small compensation, to vote any where, any place and for any man. Certain classes of men insisted on taking part in two separate caucuses and insisted on sitting as delegates in two parties, so there was an agitation for a primary law whereby each man would have the same influence. After a good deal of agitation we arrived at the conclusion in our state, that the man who votes at one primary can not vote at the primary of another party for two years after the first vote. If he cares to change his politics, he refrains from voting at the primary for two years and then begins with the other party. I feel that we are right, but I would not say I represent the views of my state, but I would say it would be a great advantage in a state like ours to keep people in their own party.

Take the liquor question: There is a live question. Anybody knows that the parties are divided very closely on it. I am on one side of that question and will vote for one party. The party will determine where they can do the most good and vote as a unit. So the party may decide where it can stand on the large matters relating to corporate influences. They will vote where it will be

most effective and the whole matter is settled by one issue rather than generally. An independent can see that he will do more good by voting for a certain man than by voting for another.

Now I think a man who registers with a party should stand by the party. The present system does not make the candidate independent. It makes him more and more dependent and men reach out beyond their parties to try to get votes in the primary from the other party. Some very great evils could grow up in that way. In my state a man can be governor as long as the people will tolerate him and, suppose I would care to build up an organization for myself. We have a lot of minority commissions and I could create a democratic faction of my own. I could create a faction in the liquor movement of my own and so in many of the other movements that are going on, which might bring about great evil. So I think there should be some method by which the voters should be confined to their own party. I have strong views on this matter and I have had some little experience. We had quite a contest when I ran the last time. The special interests were organized and then syndicated against me and we had quite an active campaign, extending into every county in the state. I know party lines were lost sight of.

This whole matter of primaries, as it now is, seems to be to one end, and that is to give the independents a chance. Following the primary law we have adopted a strict registration law. The time for this is thirty days preceding the primary. A large number are disfranchised by that. In our state we have a large number of commercial travelers who are out on the road constantly and the registration law disfranchises them and they want it abolished. They say, if we are making law for independents, make a law for them.

There has been repeating under this primary system. We had a case up there a short time ago where a man voted ten times in one day for fifty cents, and when he was asked if he hadn't voted ten different times at fifty cents he said I did vote ten different times at fifty cents, but I want it understood that I voted for the bond issue ten different times without charging a cent.

This is a serious question and I admit that I do not represent exactly the views of my people. I do not think that a man who votes for any one ticket is bound, legally or morally, to vote for

the whole ticket at the election, because someone might be nominated that he could not vote for in good conscience, but in our large cities it is a disadvantage to let men go in the polling booth and vote any way they choose. It is true that the Democrats do come over and vote in our primary and then they vote election day against the people they vote to nominate. And, a strange thing about the democrats voting for republicans, the most progressive democrat will vote for the most stand pat republican in the primary, and we have the reverse too.

But I think we ought to keep the parties clear. I think the primary movement should not go on the idea of disintegrating the parties. The primary laws ought not to be made to penalize public officials. The primary law ought not to be made so that a man can think that he can be defeated for nomination by those of the other parties or that when he is nominated there is danger of his defeat by the voting against him by certain people who voted for his nomination. You ought to keep the primary laws so you get the consensus of opinion of your own party. The distinguished former Governor of New York has gone far beyond what the law in our state is and far beyond any we hope to pass in the near future. In our state there has been a class of men who go on the theory that we ought to nominate candidates by the force of gravity and the man that interferes with that commits a crime. In other words if two or three men would get together and suggest a man for office that that was to be considered an offense. It should not be so considered. I notice in New York the party responsibility was fixed and it was considered reprehensible in the first instance to make the nomination and in the second to employ the opportunity given by such nomination to put up another ticket. Now the great church divided on issues initiated by a few people, but someone must initiate issues. In my state I think I have done something to promote primary laws and I believe every man should have an equal influence in determining the destinies in his party at a primary just as he has on election day. I believe in building up parties and making them more responsible rather than less responsible. In the state above us I am willing to concede that they have had a measure of success and that they have had some very progressive laws but the thing that has given the great success to them is their progressive men. They

have had success even without good law. If we were to follow their law in Chicago, some of us would rather go back to the old way. I say make a party a party and make it responsible for its party policies.

GOVERNOR FORT—You don't understand my address to want anything different from that, do you?

GOVERNOR DENEEN—No, I was exceedingly anxious to hear the views of Governor McGovern because his laws are so different from ours that I wanted to hear as to the reasons for it and the workings of those laws.

GOVERNOR SHAFROTH—Our state has just enacted a direct primary law at a special session of the General Assembly. We had before the Legislature various primary laws that have been enacted by various states of the Union. The laws in Oregon and Wisconsin were the subject of a great deal of comment and we think the primary law we have adopted is an improvement on both of them. Recently Senator Bourne of Oregon delivered a speech in the United States Senate on the direct primary and he recently wrote me a letter in which he stated that the direct primary law had been defective in Oregon in this that it did not limit the right to call a convention and on that account the law was defective. In other words they call a convention there and they nominate a ticket and then place that ticket upon the ballot of the direct primary. They thought that if they sent out a convention ticket that would give it a prestige which would carry it through, but Senator Bourne, although a party man, opposed every man who accepted the nomination as a convention nominee and the result was disastrous to that ticket, but he suggested to me before the legislature had enacted the law, that there should be some form of convention feature in the direct primary and acting upon that the legislature passed the convention feature, they called it an assembly. The assembly is selected from the various counties of the State just as delegates to a convention are selected and they go to a central place and deliberate and they take but one ballot upon each office. No nominations are made but every person who receives as much as ten per cent of the vote of the assembly is entitled to go upon the ticket without any designation whatever opposite his name. The only difference that existed in the General Assembly of my state in relation to that matter

was as to how they should be designated. There was an effort to have them designated on a ticket, and that was objected to and it was said they should be placed there by a Convention but the plan finally agreed upon provides that the candidates receiving ten per cent of the vote of the assembly should be placed on the ticket but there should be no designation as to who received the highest number of votes in the convention except that the man getting the highest number shall have first place on the ticket and the next highest second and the next highest third. Then if anybody is dissatisfied by the result of this vote they can by petition get on the ticket. It was thought that this assembly nomination would limit the number of candidates and would have a good effect.

Then again, the law prohibits the holding of any convention so that the party can hold no conventions except this assembly feature and that assembly feature passes upon the principles upon which the ticket is to be elected or defeated and in that manner we thought it would keep up to a certain extent party organizations and to a certain extent would obviate the objection made by the governor of Massachusetts that frequently good men could not get on the ticket because certainly any good man could get ten per cent of the votes of the assembly. Our bill is a good deal like the Wisconsin bill but we have additional features limiting the amount of money which may be expended which Wisconsin does not have I believe.

GOVERNOR MCGOVERN—No, we have not that and that is the defect in our law.

GOVERNOR SHAFROTH—We have a limit. A candidate for the United States Senate can not spend exceeding $500, the candidate for Governor not exceeding $2,500. If they exceed more than that they are punished with a fine and imprisoned and they are bound to file with the Secretary of the State the expenses of the primary and election. We have that improvement over the Wisconsin law.

GOVERNOR FORT—I mentioned Colorado in my paper and I say that Colorado provided for the payment into the Treasury of the state of a certain sum to cover election expenses.

GOVERNOR SHAFROTH—It was the adoption of the principle recommended by Mr. Roosevelt. We provided that the election

expenses should be paid by the state and the candidate and that no committee nor member of any committee nor any person for any candidate should receive any contribution from any corporation or individual. I think that is a wholesome provision if constitutional objections can be met.

GOVERNOR FORT—To whom was that to be paid?

GOVERNOR SHAFROTH—It was to be paid by the treasurer to the Chairman of the Campaign committee of each political party which cast votes for the preceding election for the office of Governor and the amount was twenty-five cents for each.

If the Democratic vote was 100,000, it would get $25,000, out of which to defray its expenses. And the Chairman of the State Central Committee was required to give bond that it would be expended faithfully in campaign expenses and he was required to give one-half of that to the various counties apportioned upon the votes for Governor the year previous. That was intended to prohibit great election funds.

GOVERNOR FORT—What was the constitutional objection to it?

GOVERNOR SHAFROTH—That it was class legislation. The supreme court decided it upon that question. One of the Chairmen of one of the political parties brought an action of mandamus to compel the State Treasurer to pay the money over. The Treasurer had no objection to it but contested it in order to prevent any liability on his bond and the Supreme Court has decided it. There has not been a written opinion given of what it bases its decision except the general statement by the Judge who decided it that it was class legislation.

GOVERNOR NOEL—Does each party have its own committee?

GOVERNOR SHAFROTH—Yes.

GOVERNOR NOEL—They have their own convention or assembly and whoever gets ten per cent of the vote in the Assembly goes on to the ticket at the General Election?

GOVERNOR SHAFROTH—No, goes on the primary ticket.

GOVERNOR FORT—That amounts to substituting the assembly for the petition?

GOVERNOR SHAFROTH—Yes.

GOVERNOR NOEL—And if anybody else wants to get on the ticket at the primary it can be done by a petition?

GOVERNOR SHAFROTH—Yes.

GOVERNOR NOEL—How many have to sign the petition?

GOVERNOR SHAFROTH—I think one thousand.

GOVERNOR FORT—I think that is two hundred more than with us.

THE CHAIRMAN—Is there any desire to continue the discussion further? If not, we will go to the next topic, "How Can the Work of the Conference be made more Effective," by Governor Sloan of Arizona, who will present the matter.

GOVERNOR SHAFROTH—I don't think we should conclude this discussion until tomorrow. We are here to discuss and if necessary I think we should extend the meeting in order to have full discussion.

GOVERNOR SLOAN—I suggest if there is any other subject for discussion that that be taken up and disposed of before I am asked to say what I shall say upon the subject assigned to me for the reason that what I say pertains peculiarly to the business of the conference, and I think such discussions as my remarks call for should be at the end of the meeting rather than injected in the program upon the general subject.

THE CHAIRMAN—Your idea is to have it in the executive session?

GOVERNOR SLOAN—I hope it meets with the convenience of the Governors to have a session tomorrow morning, if sufficient can be induced to stay for that purpose.

THE CHAIRMAN—Is that a motion or suggestion?

GOVERNOR SLOAN—I will make it as a motion.

THE CHAIRMAN—We will take it in executive session if there is no objection and now we will proceed with the question of automobile reciprocity.

GOVERNOR HADLEY—I believe, the last time, Governor Draper read a paper on this subject. Massachusetts is a progressive state in dealing with modern questions and has dealt with this. I would like to hear Governor Draper on this subject as I had to leave before he spoke last time.

GOVERNOR DRAPER—Mr. Chairman and Gentlemen: I do not feel qualified to discuss reciprocity in any of its phases and I do not feel at all qualified to discuss automobile reciprocity. If we are to hear anything about automobile reciprocity laws,it had better come from the Governor of New Jersey because I do not know of

any state in the Union that has been commented on more for lack of reciprocity in automobile laws than that state.

This is a matter that the states are interested in. We had a concrete case between Massachusetts and New York this year. The New York laws have been interpreted so that any automobile from a foreign state which was there more than ten days was subject to a very large tax. I sent the Chairman of our Highway Commission to New York to interview their Commission and Governor. I am glad to say they met us cordially and we got a different interpretation of their law so it was not made onerous on Massachusetts people, thousands of whom with their automobiles were in the state of New York. They construed the law differently so that the large taxes didn't have to be paid.

This is a question the states should consider seriously because the automobile has come to be a vehicle of general use, use which is constantly growing and people don't want to be restricted by state lines in the proper use of automobiles and we have not been the only commonwealth to find the laws of sister states very onerous on our automobile owners. We have not in Massachusetts put any special restrictions on people coming from outside into our state. There are restrictions in the law, but they are not enforced. We have called various peoples attention to the fact that we have had to pay license fees in other states and have told them that if any charges were made in their states that we would have to enforce the same laws in Massachusetts, but we have not done it to any extent. I spoke seriously when I said I did not feel qualified to discuss that particular phase of automobile regulation. I think we have one of the best laws to regulate automobiles, in our state, but I do not feel qualified to express any opinion in regard to laws that ought to be enacted by other states except one, that I believe is in the interest of all the states, to have each state treat the others generously and not make state laws imposing additional taxes on the automobile owners as they go from one place to another. That creates a great deal of unnecessary ill feeling and I know in our state we have felt that we ought not tax anybody unless he came for a long time or unless we had to do it in self defense and I think that is the underlying principle that each state would be wise to adopt in the regulation of automobiles. We do not want any state in the Union to put up the bars that

makes it onerous for the citizens of one state to go into another. I do not believe there will be harm enough to the roads of one state by the automobiles of another to amount to anything. We go on the theory in Massachussets that while we have as good roads and as many, proportionate to our size, as any other State in the Union, if people will come and stay with us we are delighted to have them come and we do not want to make it onerous. I think that is the principle that should underly the automobile laws in every state. If automobiles come and stay for a certain number of months then we require them to take out a license. But people can come to Massachusetts and stay for ten days and go wherever they like without paying anything and we will stick to that unless forced to take other action. New Jersey and New York have taxed automobiles, automobiles going to New Jersey in such great numbers from other states, that it is a serious question with them. It is not so serious with us, because when people come through our state going to the White Mountains we think we get enough out of them that we don't want to charge them for their automobile and I think that underlying fact is the one that should govern reciprocity but I say frankly I do not feel qualified enough to discuss that.

GOVERNOR FORT—I do not propose to make any recommendation on that, in my message to the legislature. I think the Govvernor-elect should say something on that question in his inaugural address. I am willing here to state my personal view. In Massachusetts they have a law that I have to pay $7.50 for a three months privilege. I went up there and drove over the state and all over their Cape Cod district and I want to say I never spent $7.50 with more pleasure and satisfaction. I think the state was entitled to it for I used the roads extensively.

This is quite a live problem in our state. We have a law in New Jersey which should be repealed. It is a tax of $1.00 for an eight day privilege in the state. It produced nearly $7,000, last year and it is to small to be considered from a public standpoint. We have a license fee for all domestic and foreign machines of equal amount.

GOVERNOR HARMON—How high is that tax?

GOVERNOR FORT—$10 is the highest price and $3.00 is the smallest. This latter fee is for small machines up to 10 H. P.

and I think it is $15 above ten horse and below thirty and I think $10 above that. Then we have a chauffeur's license of $4.00.

GOVERNOR HARMON—Have you an owner's examination?

GOVERNOR FORT—No. He is examined in a sense, but not very carefully.

GOVERNOR DRAPER—Do you examine the chauffeur?

GOVERNOR FORT—No, the State may require an examination but we don't enforce it.

GOVERNOR DRAPER—What qualifications are required?

GOVERNOR FORT—Only reasonable intelligence.

THE CHAIRMAN—Have you any automobile supervisors?

GOVERNOR FORT—We have an automobile department with a head and there are ten or twelve inspectors who look after different localities of the State. We also have two or three offices in New York and one or two in Philadelphia.

THE CHAIRMAN—Who is the superior of the supervisor?

GOVERNOR FORT—It is a department in the Secretary of the State's office and the Assistant Secretary has charge.

GOVERNOR DRAPER—Is that a state license that you issue?

GOVERNOR FORT—Yes.

GOVERNOR DRAPER—What about municipal license?

GOVERNOR FORT—We do not have any municipal license and all the money taken in is spent in the different localities for the construction of roads. We do not keep a penny of it for the State except the actual expenses of operating the department.

GOVERNOR HARMON—It goes where the machines use the roads?

GOVERNOR FORT—Yes; according to the mileage of the roads and the population. Our state is peculiarly situated. We are between Philadelphia and greater New York, with six million people in New York and two million odd in Philadelphia. Either of those cities is greater than our entire population, New York three times. We have in New Jersey more improved roads than probably any state except Massachussetts. We began twenty years ago and in different years the state has spent in aid of municipalities as much as $300,000 a year on the improvement of the roads. We have built fifteen hundred miles of road by state aid and the counties, without state aid, have built sixteen hundred more miles making thirty-one hundred miles. In addition to that, different localities have constructed something like thirty-six

hundred miles so that we have in New Jersey, practically, sixty-seven hundred miles of good improved roads, we think as good as any roads in any state.

Now the problem of construction is settled. We have our roads constructed but the problem is to maintain them. Maintenance is a serious trouble. We have no state taxation in New Jersey.

GOVERNOR HADLEY—You get all your revenue from special sources.

GOVERNOR FORT—From three sources, possibly four. First we get $3,700,000 from railway taxes, over $2,600,000 from miscellaneous corporations, about $600,000 from inheritance taxes, and if we watched it as it should be watched we would get $1,000,000. We are fortunate on those lines because so many people who are rich sleep in New Jersey who really live in New York. The problem of automobile license is more vital to our state than any other, because of our situation. There is another factor. We have in our state an ocean coast to which practically all Philadelphia and all New York, and people from a good many other states come in the summer; and for three months they and their automobiles are with us. There was a count made of automobiles that passed over a certain bridge at Asbury Park and there were 4060 that passed over that bridge on one day. I don't believe any other state could exceed that, very much.

Now New Jersey is an hospitable state and it may be questioned if we are not making a mistake in the matter when we consider what we get from the automobilists. Last year we received $245,000 for licenses fees on automobiles, and $143,000 was from outside automobiles and $102,000 from our own domestic automobiles. So the people from the outside are responsible for 60 per cent of the whole amount and service on our roads.

Now, I am in favor of some sort of reciprocity but as long as we have Pennsylvania on one side saying "you can not come into our state under any circumstances without paying the automobile fee," I do not feel like giving them the right to come into our state free.

This is a question we have to meet and we are the people most perturbed. Why, every man who manufactures automobiles or tires or has a supply house for automobiles, or who sells oil or does anything in connection with the automobile is against our law.

But every farmer is in favor of the law. Now, whoever attempts to deal with this matter is not going to have a bed of roses.

We want to do right. We want to be friendly with all our sister states but the problem is a hard one when we have to pay large tolls for going over some miserable roads in Pennsylvania and we have no toll roads at all. Every road in our state is maintained by the state or locally. We are willing to meet everybody half way. Up to the present time we have thought we ought to make the charge that we do. I do not know what is going to be the outcome in the future. The father of the automobile law is in the Senate this year and it is hard to tell what the next legislature will do.

GOVERNOR DRAPER—We passed these automobile laws two years ago in our Commonwealth fixing a state license tax and at present we are appropriating all that money to the repair of roads. We have eight hundred miles of state highway. We appropriate $500,000 a year for the extention of this highway and the state highway commission came to me a few years ago and said that the problem they had to deal with at the present time was the repairing and resurfacing those highways. We calculated on getting from this law $250,000 a year which would be $250 per mile for the eight hundred miles. The highway commission estimates that $350 per mile will keep the road in repair. As I say we passed the law two years ago and last year we got $300,000. It cost us $60,000 for the administration of that $300,000, and all the rest is spent entirely on resurfacing the State highways.

GOVERNOR FORT—Can you do that for $350 a mile?

GOVERNOR DRAPER—We have done it.

GOVERNOR FORT—We have just provided for a state highway from Atlantic Highlands to Cape May, one hundred and twenty-seven miles, for which we appropriated $50,000, for beginning. There was an estimate that it could be repaired for from $250 to $300 a mile and I thought it was very low.

GOVERNOR DRAPER—Our estimate was $300 a mile, the lowest estimate that we have ever levied and the roads today are in better condition than ever before.

Another matter is our examination of chauffeurs before they can get a license. These examinations are strict. We don't carry that out with chauffeurs who come in from other states.

But as a matter of fact, any man who gets a chauffeur's license from the Commonwealth of Massachusetts has to go through a very serious and severe test. We have, under the highway commission, men who are professional chauffeurs and they take every applicant and make a man run a machine through the crowded streets of Boston and they give him a strict examination and unless he can make good in every respect he is not given a license.

Those are the two points that I want to make clear. I believe in a state passing an automobile law requiring the strictest possible examination of professional chauffeurs. It is a strange thing, but most of the accidents in Massachusetts are with automobiles handled by professional chauffeurs and they happen mostly when the chauffeur has the machine out without the owner. I believe there should be a provision that any chauffeur who takes a machine out without the permission of the owner should be guilty of theft and subjected to punishment.

GOVERNOR HADLEY—What is your new system of surfacing roads?

GOVERNOR DRAPER—We are making a great many gravel roads in the less thickly settled sections of the state, because we have found with that and the various oil and tar preparations, I can't tell the different names, that we can make a road for automobiles almost as good as macadam. We use these preparations also on the macadam roads and we are getting very good results.

We have a splendid highway commission and they have given the most thorough investigation and care to this matter and are studying all the time to improve the conditions that exist and we are getting excellent results. Those are the two points I want to make, very strict examinations of professional chauffeurs and the use of all money from automobiles for the repair of the roads.

GOVERNOR HARMON—Does the owner of an automobile have to go under the examinations before he can run a machine in your state?

GOVERNOR DRAPER—He has to, but nothing like what the professional chauffeur has to go through. He has to run the machine a distance and have certain familiarity with it but they are not near so strict with him as with the professional chauffeur.

GOVERNOR WEEKS—I would like to say one word on this subject. It was expected by the Supervisor of automobiles in our

state that this question would come up and he discussed the matter with me. Our laws are similiar to those of Governor Draper's state. I want to touch however on the New York law. Two or three months ago Massachusetts and Connecticut were much exercised over the interpretation of the New York automobile law supposed to go into effect September 1st, but which was extended until October 1st on account of not being able to get out the licenses. In the meantime, it was given out that anybody coming in to the state must pay out a license before they could go over the roads. All New England was up in arms and the Secretary of the State who had charge of the roads came to me with a communication from some gentlemen in Ohio who were very much exercised and there were telegrams. The president of the automobile association of New England wired me at length in regard to this New York law. He wanted me to take it up. After due thought I rather hesitated, I did not think it was my place to ask Governor Hughes not to enforce the laws of the State of New York. I however sent for the law and examined it and it ended in my sending a telegram to Governor Hughes and the Secretary of the State of New York and my answer was that the laws would have to go into effect at once, but the next morning a letter was received saying that the Attorney General had interpreted the law differently, and we would have the ten days we allowed in Massachusetts and Connecticut.

The automobile has come to stay and some uniform laws ought to be passed in regard to it. Whether we take it up today or not it will come before this Governors Conference sometime and I think every Governor should give that question considerable thought.

Now, if there is no further discussion, it has been voted that Miss Clay should have fifteen minutes to present to the Governnors a request or petition.

MISS CLAY'S ADDRESS

MISS LAURA CLAY—Gentlemen of the Conference: I thank you in the name of the National Women's Suffrage Association and of its Auxiliary in Kentucky, the Equal Rights Association, for granting me, as their delegate, a few minutes time from your consideration of so many topics of national importance. Our object is to ask you to consider as one of these questions, the vital one of extending the right to vote to women. I shall not attempt an argument to show that taxation without representation is tyranny and that Governments derived their just powers from the consent of the governed, for you know that as well as I do. But I do wish to present to you a few evils which can be cured only by the votes of women. When the principles of our Government were formulated, perhaps they were somewhat abstract in their application to women under the circumstances under which the most women lived in those days. But time has wrought changes in the methods of living. Thousands of young women are being reduced below the normal vigor of young women from unsanitary surroundings, worn out by long hours of labor, pinched and stunted because of wages so low as to be almost below the living point. We are all, now, familiar with those facts and know that such conditions exist in many places. And can the nation afford to waste its young womanhood and prospective motherhood of this nation? Of course there may be legislation which will do what it can to correct these evils for women as well as for men, but in that legislation there will not be any women represented. We have found often enough that after the demands of the men are adjusted there is little time left to devote to the requirements of the women.

In the garment makers strike now going on in Chicago, committees of investigation tell us they have already found five thousand babies starving and that milk must be supplied to them or they will perish and the strike is not yet over. Of course there may be legislation but in that legislation there will not be one mother represented.

You gentlemen have been occupying your time in considering the conservation of natural resources, forests and water ways and mines and the paper says you are even going to consider child labor. Will you not give a little time to the conservation of the motherhood of the nation and of the little children.

In the second place we hold that this is a question of national importance and if you consider it you will not be forcing it upon an unprepared public. We now have four states in which women have the right of full suffrage and in the last election there were four others which submitted constitutional amendments granting suffrage to women electors and the state of Washington did itself the honor to carry that amendment.

So, with the states that we have and the agitation that has constantly been going on concerning the subject, the public mind is prepared and we feel that it is ready for some expression from this conference of men from whom so much practical statesmanship is expected and therefore we petition that you will in some form bring to bear your influence upon the several states to pass favorably upon this great question.

GOVERNOR SHAFROTH—There was a Committee waited upon the Governors when they were in session at Washington which made an appeal to that body with relation to the subject of laws affecting women in the various states, and in which they promised they would appeal in some form to all the states with relation to the rights of women in relation to franchises. In some states women have full franchise, in some only franchise as to school matters, in others they can go to municipal election and still others there is a property qualification. That Committee has sent me a compilation or digest that they proposed to have printed and a copy sent to each of the Governors so there would be some uniformity of the action taken in regard to the matter. I am very much in favor of this matter but I shall not present any remarks on it because Miss Clay has so eloquently presented the matter in behalf of women suffrage. Each Governor will be sent a copy of this report from this Committee and I hope that after we have had opportunity to examine the various laws that it will be the subject of discussion at the next conference or at least one of the conferences and that some uniform plan of action can be agreed upon to be recommended by this body.

THE CHAIRMAN—The matter is now up to discussion and if no discussion is desired it was the understanding that we would now go into Executive Session.

EXECUTIVE SESSION

Louisville, Ky., Dec., 1st, 1910.

Met pursuant to call with Gov. Hadley in Chair.

THE CHAIRMAN—Governor Sloan will now deliver his address.

GOVERNOR SLOAN—Mr. Chairman and Governors: I have not any paper to read nor have I any formal address to make to you upon the subject assigned to me, which was and is "How Can The Governors Conference Be Made Most Effective During The Coming Year?"

I do not know why this subject was given to me unless it was upon the theory that as I had been assiduous in my attendance upon the last three conferences, I might have derived from my attendance some ideas which may be of value.

A good deal of what I had intended to say was discussed informally in our Executive Session last evening. The subject of the time and place of holding the next conference was determined. You recall, when it came to the question as to the place for holding the conference, I voted No with Brother Hadley of Missouri. I do not wish to have that matter reconsidered, but I desire to give my reasons for that. These conferences have reached a critical period in their history. We have reached a danger point and that danger point lies in the direction of the attendance. The attendance is gradually growing less. We have only twenty-two Governors here. If this ratio of decrease continues for a year or two, you know what will happen to these conferences. They will die. In my judgment such an event will be a disaster. I am so profoundly impressed with the value of these conferences, not only to those who participate but in their possibilities, that I regard such contingency as one to be avoided if those of us who are present can possibly do so. Washington has advantages which no

other place possesses. It is impossible for us to meet in any city in this country without there being counter attractions of some sort. If we go to any summer resort there are counter attractions, things that will naturally divert our attention from the serious work of this conference. I believe in Washington there will be as few of these as at any other place, and I believe we can get a larger attendance at Washington than at any other place; and I believe above all other questions the question of attendance is the vital one. If this conference is to live to do its work, the question of attendance must be considered.

As to the time of meeting, that is a matter largely of convenience. A time should be chosen, however, that will be most convenient or at least will be convenient to most of the Governors so that the largest attendance can be secured. I am quite content as an humble member of the conference to experiment once again with holding these conferences at some other place than Washington. It may be that I am mistaken, and that the place designated will be found after all to be the best possible selection; anyhow, that question is settled for the coming year.

There are other questions that are still unsettled: The question of the budgets still remains for determination. That was threshed out to some extent last evening, but inadequately in my judgment. We still have not determined upon any plan of procedure for the future. We have taken care of the expenses up to this moment but we have not provided any adequate scheme for raising money for carrying on this conference.

I have given some thought to this subject and I believe as I said last night that the best policy for us to pursue is to endeavor to get the assistance and cooperation of our states through our Legislatures and I believe if the matter is adequately and properly presented to the various Legislatures of this country, not one of them will fail to respond to such an appeal. I suggest in this connection the propriety of the Committee on Arrangements drawing up some general statement as to the object and purpose of this conference, directing that to the Chief Executives of each state to be by them submitted to the Legislatures of the several states. (Applause.)

I see you get the idea and that I need not elaborate on that subject.

Now as to the kind of an organization we need. I believe firmly in centralized effort. I believe one Committee is better than two Committees and that we do not need but one Committee. You may call that Committee the Committee on Organization or Committee on Arrangements or what not, but that Committee ought to be clothed with all of the authority that is needed to be conferred on any Committee. In this way, I believe we will get better results, particularly because we are scattered widely all over the country, and it is difficult to get even one Committee together as much as may be necessary in order to take care of the business of the conference. I think a Committee of three is ample for that purpose and if wisely chosen, particularly with reference to geographical location, that committee can do the work of the Conference. I believe that Committee should be clothed with full authority to arrange the program, to arrange the budget and to do everything necessary in order to provide for the future of the Conference. I believe we need a Secretary, as I said last night. I think such an officer is essential to the continuity of these conferences. This is a shifting body: we come; we go. Some of us are here one time and are not here the next time even though we may be in office. The office of Secretary is the nucleus around which all of the activities of the Conference must necessarily center. If we need advice as to what may be done in one state or another, if we need data to prepare messages or for any other purpose, to whom can we send? Certainly not to the Chairman of the Committee on Arrangements. That is asking too much of that gentleman even if he had the time to devote to it, but the Secretary can do that work.

The Secretary ought to be a man competent to do that work. He ought to be a man sufficiently paid to warrant him in giving his whole time and best efforts to that work. I believe we ought to have headquarters, not elaborate, I do not think there is anything in that, but we ought to have some place where he can be found. He ought to have an address that is certain and definite, and a place where he can be reached and where he can do his work. I believe he should have such assistants as needed in order that he can properly carry on his work as Secretary. This will cost some money but that is a thing that we must take care of. Personally, I would be willing to contribute out of my very small

salary to that end, but I do not believe it will be necessary for us to do those things personally. I believe if we present the matter fully and completely to the Legislatures of the different states, they will take care of the expense. So much as to the general organization.

Now some little thought with reference to the program. Pardon me for mentioning that. I am personally entirely willing to leave that to any Committee that is chosen for that purpose, but I have a thought or two which I hope you will pardon me for expressing. I believe we ought to have few subjects for serious discussion, that is, the program should be made up of few subjects. I suggest that there should be only one subject for each days discussion. I believe an entire day is not too much to give to any subject of sufficient importance for us to take up and discuss. I believe we will get a large attendance at these meetings, if it is expected—almost demanded— of every Governor who attends that he shall speak to each subject as it arises. Of course, with an attendance of thirty or forty Governors all would not and could not speak. Some might want to talk and some might rather listen. Some people love to talk—I don't know but that I am one of those—but there are others who are diffident and modest and need urging. They fear lest they may obtrude upon the attention of the Governors and they think that what they may have to say may not be of sufficient worth to be incorporated into the record to publish. They need a little encouragement. And yet deep down in their hearts, I have a notion that every Governor who attends has a desire to say what he has to say on every subject and you know we frequently find in unexpected places some unassuming Governor drops a thought of vital importance which illuminates the whole subject-matter under discussion, much better than the formal paper of the Governor to whom the subject was referred. So I think ample time should be given to every Governor,and that can only be had if we devote a whole day to each subject.

Now we have had two or three subjects discussed in a way immensely interesting to me and I was sorry st see those subjects dropped and I would like to see a fuller discussion. There are one or two questions that I would like to ask, but the feeling was all through the room, hadn't we better defer this, or are we not

trespassing on somebody elses time, or is this question to be discussed later, and a good many of us who wanted to say something or wanted to ask something sat still and said nothing. That will not happen if we limit discussion to one subject a day. That is all I have to say upon that subject.

Now with reference to another feature, I believe that it is wise to have a subject assigned to some particular Governor who shall write a paper. Now it has been suggested—and this is not my own thought, it has come to me during various conferences from different sources, and I think it is worthy of consideration—that this paper be written sufficiently in advance of the meeting to permit of its being printed and distributed to the Governors when they attend so that this paper will be a sort of thesis to be discussed. It will be assumed that it will cover the general subject. In this way we can know exactly what we want to say in advance. If there is anything in that paper that does not meet our views we will know it and be prepared with what remarks we think the occasion calls for.

GOVERNOR FORT—You mean that the paper should be printed and sent out to each of the Governors before hand?

GOVERNOR SLOAN—Yes. I think the program should be arranged three months in advance of the meeting.

GOVERNOR FORT—I think that is an admirable suggestion.

GOVERNOR WILSON—The Governor might prepare the paper and send it to the Secretary and the Secretary could have it printed and sent out.

GOVERNOR SLOAN—That is a detail that the Committee could determine on, how it should be handled.

GOVERNOR NORRIS—You say one subject each day ?

GOVERNOR SLOAN—Yes.

GOVERNOR NORRIS—And one Governor be assigned to write a paper on the subject?

GOVERNOR SLOAN—Yes, but if the subject were one to have subheads to it, a Governor could be assigned to write on each of the subheads.

GOVERNOR NORRIS—If a Governor should prepare a leading article, say on the question of abolishing consent, that would serve as a basis for the discussion for the remainder, and you say that an entire day should be given to the discussion of one subject.

GOVERNOR SLOAN—Yes, that is my idea exactly.

GOVERNOR MANN—It seems to me that there will be some trouble in that procedure. There will always be a hesitancy when there is a discussion to be published. I don't know how it is with the other Governors, but sometimes when I make a speech and it is not reported exactly correct, I have to answer a great many letters explaining that I didn't make that particular statement and sometimes when I have it correctly reported I have to answer a great many letters. That is a serious matter and I want to call attention to it. A man who has not made any preparation will get up and is apt to say something that he ought not to say, apt to say things that he would not say if he had an opportunity to weigh his words. Therefore, it is an embarrassment to have these discussions taken down and published without our supervision.

GOVERNOR WILLSON—But all of it will be sent to you.

GOVERNOR SLOAN—My suggestion is that the leading paper be prepared sufficiently in advance so that all of us know what it contains and be prepared to know what we want to say. Then we can take care of our remarks and have them in just such shape as we desire. Before the Committee decides upon a subject, they should send to each Governor a list of the subjects suggested and a vote should be taken as to what subjects shall be discussed and the subjects that have the largest number of votes shall be the subjects for that Conference.

GOVERNOR WILLSON—That is exactly what we did at this conference, but very little attention was paid to our communication, but there has not been a subject put on the program that was not suggested by some Governor. The Secretary didn't attempt to be our advisor. The Secretary didn't put anything on without consulting the Committee. The Secretary corresponded with everybody and asked them what they thought the subjects should be and the answers were laid before the Committee and they chose the subjects. There has been a great misapprehension about this. Some seem to have the idea that the Secretary assumed to make the program. I say this as a matter of justice to a very hard working officer. The Secretary did nothing of the kind. He wrote letters to all of the Governors and submitted their answers to the Committee and I have those letters in my office now. The

program was made from those letters and it was submitted to me and the Secretary did not assume to do anything.

GOVERNOR SLOAN—As I said before, the effort should be made to secure the fullest attendance and every man should be a Committee of one working to that end. Next summer there will be frequent opportunities for the various Governors to get together and we should avail ourselves of every opportunity to get together and do everything we can to secure the largest possible attendances for these conferences.

GOVERNOR WILLSON—I have taken this matter of the Conference of Governors very much to heart. I am not its author. I did not conceive the idea originally but when my brother Ansel at the first Conference suggested it as an annual event and we found how much of good and how many very valuable suggestions and how much valuable information we got from it, we all fell in with the notion. I believe Governor Fort was there and Governor Sloan and quite a number who are here and when we found how interesting it was, and I am not sure but that it was Governor Fort who first said, Why can't we have these meetings annually? I believe that the first meeting was at the suggestion of Mr. Roosevelt, but we all saw how useful it was and we have continued them. We all wish to be useful to our states and we recognize that this is something that will tend in that direction. Now we have had a great deal of work and a great many valuable suggestions from Governor Sloan. He is one of the most thoughtful men who ever lived. I wish to pay that tribute to him for his earnest and efficient services, but Governor's can't do the work of this conference. Every Governor is busy. We all know that, better than any outsider. There is a great deal of routine work which ought to be done by somebody competent to do it. I am not competent and I haven't the time. Very few of you are competent to do it and you haven't the time. We must have a paid Secretary to do it. He ought to get a good salary. We ought to have a Treasurer to attend to expenses and we ought to make ample provision. Suppose the whole matter cost $10,000.00 there will be $3,000 or $4000 for a Secretary, office rent, a good deal for stationery, more for postage, a large amount for the stenographic and printing bill. All modern business has to be done that way. Anything that amounts to anything costs money. We all hesi-

tate to create new expenses for our state, but where is one of us who when he can show his state the benefit that will come from an appropriation ever fails to get it. I am speaking more than I ought on this subject but I feel it very deeply although I shall, only be with you once more. I cannot succeed myself. I am ineligible but none the less, I am for the movement and I wish these conferences to be made permanent.

GOVERNOR HARMON—I want to make a motion to bring this matter up. I think I have given more thought to the subject of future Conferences because the importance of the need of the Governors of all of the states of the Union is impressed on me with more and more force as I reflect on the possibility. There is not in the world a body comparable with the Governors of the American States, each one of them a man who has been selected by his people to be their Chief Magistrate not only to enforce the laws but to recommend and participate in the passage of measures. I am profoundly interested in having these conferences published and I have given a good deal of thought to the machinery for doing it, although we want as little machinery as possible. I have talked to several of the members present, although I did not talk with the Gentleman from Arizona, yet, he expressed what I have in my mind, and I am going to put it in the form of a specific motion I do not care where we meet or how we get together. If the Governors get together with an opportunity to talk to each other, good is bound to come and if the subjects are known in advance, if the papers are prepared as suggested and distributed. we would all get more benefit.

We had decided on next September in the state of New Jersey. We haven't time here to make our arrangements as to the details. We must leave that to a Committee. I believe it should be a small Committee so that it can meet without much inconvenience. I think the thing to do this year is to turn the whole matter of arrangements over to the three Governors close to the place of meeting and I move that the Governors of New Jersey, New York and Connecticut be appointed a Committee with full authority to arrange the details of the meeting and to employ whatever assistants is necessary.

I believe you ought to have a man of sufficient capacity to properly conduct a sort of clearing house. While there has been

some criticism of the gentleman who has thus far acted as Secretary, he has a great many of the qualifications required. He is earnest and zealous and while he may have exceeded our ideas of his duties in some things, it is hard to find a satisfactory man. But now that he has ascertained our views, I think he will do the right kind of work.

In addition to that, I move that the Committee prepare and send to the Governor of each state of the Union a statement, as suggested a moment ago, of the objects and purposes of the Conference, and that it is the sense of the meeting that each Governor should bring the matter specifically before its Legislature. I am mpressed with the idea that when the matter is properly made before the Legislature the Legislatures will make the needed appropriation. Some of us already have sufficiently large contingent funds and I am satisfied that with the matter properly presented to the Legislatures, proper appropriations will be made to the rest of us.

The motion of Governor Harmon was then adopted.

During the Executive Session the next place of meeting was fixed at Spring Lake, New Jersey, to begin some time between the first and fifteenth of September, 1911.

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